

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA PLAINTIFF
VERSUS CIVIL ACTION NO. 3:22-cv-00686-HTW-LGI
THE CITY OF JACKSON, MISSISSIPPI DEFENDANTS

STATUS CONFERENCE
BEFORE THE HONORABLE HENRY T. WINGATE,
UNITED STATES DISTRICT COURT JUDGE,
JUNE 21, 2023,
JACKSON, MISSISSIPPI

(APPEARANCES NOTED HEREIN.)

REPORTED BY:

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1 APPEARANCES:

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3 FOR THE PLAINTIFF: ANGELA GIVENS WILLIAMS, ESQ.
4 KARL J. FINGERHOOD, ESQ.

5 FOR THE DEFENDANTS: CATORIA PARKER MARTIN, ESQ.
6 TERRELL WILLIAMSON, ESQ.

7 ALSO PRESENT: GERALD KUCIA
8 CHARLES MCGUFFEY
9 TED HENIFIN
10 MAYOR CHOKWE ANTAR LUMUMBA

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IN OPEN COURT, JUNE, 21, 2023

THE COURT: Terri, call the case, please.

THE COURTROOM DEPUTY: Your Honor, this is United States of America versus City of Jackson, civil action number 3:22-cv-686-HTW-LGI. Before the Court today is a status conference.

Appearing, we have for the plaintiff Angela Givens Williams and Karl Fingerhood. For the defendants we have Catoria Martin and Terrell Williamson. For the State of Mississippi, Gerald Kucia. For the interested parties, we have Charles McGuffey. Also appearing in the court is our third-party manager, Mr. Ted Henifin, and our mayor, Mayor Chokwe Lumumba. Also observing we have representatives from the EPA and the Department of Justice observing via Zoom.

THE COURT: All right. Thank you.

This is a status conference that this Court arranged after this Court was advised of a notice provided by the mayor of the City of Jackson. The question generated from that press conference conducted by the mayor was whether everything said therein was accurate or whether the public could determine some facts that were not necessarily facts in existence at this time.

As you know, this Court appointed Mr. Henifin, who is an expert on this matter of water management, and he has

1 been working diligently to address Jackson's water woes.
2 Shortly, I will call upon him to discuss, first of all, the
3 progress that he has made with regard to these matters;
4 secondly, what issues he might take with the mayor's
5 conference; and then, thirdly, what we need to do to resolve
6 this matter.

7 Before I call upon him, I will give the mayor an
8 opportunity to discuss his press conference and whether he
9 thinks there was anything that had the potential to mislead
10 the public.

11 I cite this matter because not only must we address the
12 water woes of Jackson, but we have to worry about instilling
13 confidence in the public that the water is safe. Otherwise,
14 we will have a public which is duly suspicious of its own
15 water and a public that might not be supportive.

16 To start off this matter, I want to be sure that all of
17 us are on the same plate about what concerns us here, if
18 there is any need to be concerned; that is, we need to look
19 at the press conference that was conducted by the mayor on
20 this matter, a matter concerning water filters.

21 So let me talk to my IT people. Good morning.

22 MR. WATSON: Good morning, Your Honor.

23 THE COURT: And identify yourself for the record. Of
24 course, I know you. But I want your name on my record.

25 MR. WATSON: Patrick Watson and Reginald Spencer.

1 THE COURT: All right. Gentlemen, good morning again
2 to you.

3 MR. WATSON: Good morning, sir.

4 THE COURT: Do you have the video of that press
5 conference?

6 MR. WATSON: Yes, sir.

7 THE COURT: Are you prepared to play it?

8 MR. WATSON: Yes, sir.

9 THE COURT: All right. Then would you go ahead and
10 play it.

11 And those in the audience, you may view this video from
12 the TVs. You have one on either side of the courtroom.

13 And those at counsel tables, you may review it from the
14 monitors there in front of you.

15 So then would you go ahead and now play that
16 conference.

17 MR. WATSON: Your Honor, can I say one thing before we
18 play it?

19 THE COURT: Yes.

20 MR. WATSON: We pulled this copy off the Internet, so
21 the quality -- you can hear audibly, but there may be a
22 little bit of distortion at times, but it was a copy that we
23 pulled from the Internet. It wasn't a hard copy that we
24 received of the press conference, so just want to preface
25 that before we play it in case there is any questions about

1 sort of the jittering and -- you can hear it. I just want
2 to tell you that we pulled it off the Internet instead of
3 having a hard copy that we played.

4 THE COURT: In other words, it is not your best work?

5 MR. WATSON: Your Honor, I don't want to attach my name
6 to this, but my name is attached to it, so I am just trying
7 to save myself.

8 THE COURT: Okay, then. You are saved.

9 MR. WATSON: Okay.

10 THE COURT: All right. Now, go ahead and run the
11 video.

12 MR. WATSON: Yes, sir.

13 (Video playing in open court.)

14 THE COURT: All right. Thank you so much. We will
15 take that later and make it a part of this record for the
16 status conference. Thank you.

17 In dealing with this water crisis that we have, the
18 parties and the Court got together and decided to craft an
19 appointment for an interim manager, that person being
20 Mr. Ted Henifin. Mr. Henifin is here with us, and he has
21 impeccable credentials relative to these types of matters,
22 having dealt with them in many other places and other
23 cities.

24 So then the parties agreed that Mr. Henifin should be
25 the interim manager of the water company and that he would

1 report to the Court as necessary.

2 Accordingly, I have met with him on a regular basis to
3 determine what the next steps should be, how successful we
4 have been so far with tackling this problem, and I am
5 impressed with how Mr. Henifin has dealt with these matters.

6 I had planned to do a conference sometime soon on the
7 developments that we have already managed to accomplish, and
8 before I did that, I needed to get approval from the court
9 system, because at first I was going to do a town hall
10 meeting-type concept. I notified the administration of the
11 United States Courts of what efforts we had already taken in
12 this regard, and they didn't think that a town hall meeting
13 would actually be the vehicle that we should utilize.

14 So then we decided to do a status conference here in
15 the courtroom and to have Mr. Henifin and his staff, along
16 with the parties to this litigation, be privy to what they
17 had to say and allow anyone to ask any additional questions.

18 Prior to this, Mr. Henifin arranged for me to undertake
19 a tour of Jackson to see firsthand some of the problems
20 which await us for solution. And that has been very
21 eye-opening.

22 Not only was I allowed a tour of the water problems,
23 but since now I have the case involving sewage, he also
24 showed me some desperate problems with the sewage that we'll
25 mention in passing when I address him.

1 In a number of places in Jackson, we have raw sewage
2 which is erupting out of the ground. We also have homes
3 which have backup sewage, forcing those unfortunate
4 residents to have to vacate their property in the meantime,
5 because the stench, the health hazard are too great.

6 And then we had to determine how to determine what
7 problems should be addressed first, and so we have been
8 dealing with that. Mr. Henifin with his staff I think,
9 again, has -- they have done a tremendous job in determining
10 how to address these various matters for optimal results.

11 So now what I propose to do is to reintroduce
12 Mr. Henifin to Jackson. He has already been in and about.
13 He has already been in court on an occasion, and he has also
14 made himself available to the parties in this lawsuit and to
15 the public when they have given him enough time to address
16 them on these problems.

17 Mr. Henifin has been most successful in dealing with
18 the biggest water crisis that we had here, a crisis that had
19 lasted for quite some time, that had resulted in millions of
20 gallons of water being lost, treated water being lost; that
21 is, water that had already been treated and purified ready
22 for public consumption, but the water could not make it to
23 the households because of some ruptured pipes. The
24 situation had lasted for a long period of time.

25 But under Mr. Henifin's watch, we were able to develop

1 a quite simple solution for all of this, and in a very short
2 time put a Band-Aid on that particular problem.

3 I'll let Mr. Henifin talk about these matters that he
4 has accomplished, and then after that we are going to get
5 into the video, because I asked Mr. Henifin did he have any
6 problems with the language of the video, and he informed me
7 that he did. And so then I wanted to know precisely what
8 problems he sees in the video and some misconceptions that
9 the public could derive from that video.

10 After he has spoken on that at least briefly, since the
11 mayor has sent us a position statement on his involvement
12 with the video, I will hear from the mayor, and then
13 thereafter I would allow Mr. Henifin to tell me what he
14 thinks about the mayor's explanation on these matters.

15 So I'll start with Mr. Henifin. Good morning,
16 Mr. Henifin.

17 MR. HENIFIN: Good morning, Your Honor.

18 THE COURT: Mr. Henifin, how long have you served as
19 our interim manager?

20 MR. HENIFIN: We are approaching the seven-month mark,
21 sir.

22 THE COURT: Seven months. And you were appointed by
23 the Court with the concurrence of the parties to this
24 action?

25 MR. HENIFIN: Yes, sir.

1 THE COURT: Mr. Henifin, I mentioned that you have vast
2 experiences in these matters. Is that so?

3 MR. HENIFIN: Experience, yes. I think you overstate
4 my expertise many times, but I have been doing this work for
5 over 40 years.

6 THE COURT: How many years?

7 MR. HENIFIN: Over 40, Your Honor.

8 THE COURT: Forty?

9 MR. HENIFIN: Yes, Your Honor.

10 THE COURT: And you have been to different cities.

11 MR. HENIFIN: Yes, Your Honor. Mostly in the
12 southeastern Virginia area.

13 THE COURT: And you have dealt with all these
14 matters -- is that green light on?

15 MR. HENIFIN: Turned it on, make sure you --

16 THE COURT: All right. Thank you. And then the
17 parties here were given access to your resume, and from a
18 group of other persons they selected you as a person who
19 should serve as an interim manager, and that was done with
20 the Court's agreement, correct?

21 MR. HENIFIN: Yes, Your Honor. I'm not sure they had
22 anyone else willing to step up, so it might not have been
23 purely on expertise, but I was willing to do it, yes, Your
24 Honor.

25 THE COURT: I think you are being modest. And,

1 Mr. Henifin, you have dealt with me on a regular basis.

2 MR. HENIFIN: Yes, sir.

3 THE COURT: Because I have been interested in -- more
4 than interested, since I am the judge over this lawsuit,
5 about the progress we are making. And so you also are
6 familiar not only with the water issue, but you are also
7 aware acutely of the sewage issue, correct?

8 MR. HENIFIN: Yes, Your Honor.

9 THE COURT: And in fact, it was you who suggested --
10 instructed me that you thought that the water issue and the
11 sewage issue should be combined, correct?

12 MR. HENIFIN: Yes, Your Honor. I thought I saw some
13 benefit to the structure you and the parties created on the
14 water side that would be applied to the sewer system and
15 maybe make some quicker improvements than have been made in
16 the past.

17 THE COURT: And so we have been moving towards
18 consolidating those two matters, correct?

19 MR. HENIFIN: Yes, Your Honor.

20 THE COURT: In fact, I have directed the parties to
21 come together to handle the necessary paperwork to combine
22 those two matters. And in addition, I feel that inasmuch as
23 you have the expertise in both areas, that you then should
24 have a similar position with regard to sewage as you now
25 enjoy with regard to water.

1 The bills for the sewage and water go out together.

2 MR. HENIFIN: Yes, sir.

3 THE COURT: The infrastructure on both the sewage and
4 the water are related. The moneys that are going to be
5 eventually all disposed to the City can be used for the
6 water and then later some moneys for the sewage.

7 MR. HENIFIN: Potentially. The federal dollars we have
8 received are limited strictly to the water.

9 THE COURT: Right. That's what I was saying, it's
10 limited to the water that we have already gotten, and that
11 is something that you and I have scheduled for later in the
12 week to discuss the amount of money that has recently been
13 received and how that money is to be earmarked.

14 MR. HENIFIN: Yes, Your Honor.

15 THE COURT: We have also discussed the projects that
16 will have to be conducted on both the water side and the
17 sewage side.

18 MR. HENIFIN: Yes, Your Honor.

19 THE COURT: And we have some determinations that we
20 have to make with regard to those projects.

21 MR. HENIFIN: Yes, Your Honor.

22 THE COURT: You are in the process of determining what
23 projects need mostly to be engaged in at present and then
24 move on to the ones that are less involved to one sense.

25 MR. HENIFIN: I am working with closely with the City

1 on that, Your Honor. They have got a great feel for what
2 needs to be done as well.

3 THE COURT: And the City has at one time -- well, even
4 now maybe -- been under the watch of the federal government;
5 is that correct?

6 MR. HENIFIN: Yes, Your Honor.

7 THE COURT: EPA?

8 MR. HENIFIN: Yes, Your Honor.

9 THE COURT: How long has the City been under the EPA's
10 directives?

11 MR. HENIFIN: I believe it is 12 -- 10 -- 11 -- 10
12 years. Ten years, Your Honor.

13 THE COURT: Ten years.

14 MR. HENIFIN: Ten years, Your Honor.

15 THE COURT: And under the EPA's watchful eye over the
16 City's sewage problem, the City was directed to do certain
17 thing, was it not?

18 MR. HENIFIN: Yes, Your Honor.

19 THE COURT: Those things have not been accomplished,
20 have they?

21 MR. HENIFIN: I believe they were financially
22 challenged to get some of those done.

23 THE COURT: And so they have not been able to get done
24 what EPA wanted?

25 MR. HENIFIN: Yes, Your Honor.

1 THE COURT: Over this ten-year period.

2 MR. HENIFIN: That is correct.

3 THE COURT: And when we went out for a tour, and I'll
4 start with the sewage problem, you showed me some raw sewage
5 bubbling up from the ground --

6 MR. HENIFIN: Yes, Your Honor.

7 THE COURT: -- by itself, that is an horrendous
8 development. And the one you showed me, the first one, was
9 close to a senior citizen home, was it not?

10 MR. HENIFIN: Yes, Your Honor.

11 THE COURT: And I remember saying that we need to move
12 on it quickly, and I also asked a naive question: What is
13 causing this matter? And I think you told me that this
14 cause was because of a stoppage, a backup in the sewage
15 pipes.

16 MR. HENIFIN: Yes, Your Honor.

17 THE COURT: I then asked why couldn't these pipes be
18 drilled out so that the pipes would be clear of the
19 congestion and the sewage could flow. I said that I own
20 some property, rental property. From time to time some of
21 my tenants flush the wrong things down the pipes, and I have
22 to call up some organization to come and clean out my pipes.
23 And I mentioned that to you, and I asked did not the City
24 have such capacity to drill out pipes, did they have trucks
25 that might be able to do that. And, of course, you remember

1 what you told me?

2 MR. HENIFIN: Yes, Your Honor.

3 THE COURT: You said the City has three trucks. At
4 that time, three. And I says, well, then it is no problem,
5 so why can't the City simply take these trucks and have them
6 drill these pipes? You said they couldn't do that. Tell me
7 why you said that.

8 MR. HENIFIN: I was under the understanding that the
9 three trucks had been in the shop for repair and they hadn't
10 paid the bill to get them out yet.

11 THE COURT: The City had all three trucks in the shop.

12 MR. HENIFIN: Yes, Your Honor.

13 THE COURT: And those three truck were not available
14 because the City hadn't paid the bill yet?

15 MR. HENIFIN: That was my understanding, yes, Your
16 Honor.

17 THE COURT: So then I said I can call up a private
18 company and have them come out here and drill this pipe. I
19 also said that I was so disturbed about that matter that I
20 was going to pay the cost and not charge the City. Do you
21 recall that?

22 MR. HENIFIN: Yes, Your Honor.

23 THE COURT: I said, because if we have this problem
24 here near a senior citizen home with this potential
25 endangerment to that group of folk, then I would just pay it

1 and I would not charge the City at all. Do you recall my
2 saying that?

3 MR. HENIFIN: Yes, Your Honor.

4 THE COURT: And so then you said that I might be taking
5 on a tall order.

6 MR. HENIFIN: Yes, Your Honor.

7 THE COURT: And I said why? It is just this one here,
8 so I don't mind. I'll just pay the cost, and I'll live off
9 peanut butter and jelly sandwiches for a while, but I will
10 go ahead and just pay the cost, and I won't charge the City.
11 So then you said but I need to know the quantum of the
12 problem.

13 MR. HENIFIN: Yes, Your Honor.

14 THE COURT: And while I was thinking that it was just a
15 few spots where the sewage was bubbling up, you told me
16 there were quite a few. I believe you said 257.

17 MR. HENIFIN: There was 250-something, that's for sure,
18 Your Honor.

19 THE COURT: And they had similar problems.

20 MR. HENIFIN: Yes, Your Honor.

21 THE COURT: So then you asked me was I prepared to
22 support 250 type of situations.

23 MR. HENIFIN: Somewhat in jest.

24 THE COURT: And I said I don't have enough peanut
25 butter and jelly for that.

1 So then I asked the next question of when did the City
2 project it would be able to get their trucks out of the
3 shop, and I believe you said you had no idea.

4 MR. HENIFIN: That is correct, Your Honor.

5 THE COURT: So those trucks stayed in the shop, I take
6 it.

7 MR. HENIFIN: They -- one of them came out somewhere
8 after that period of time. I don't know exactly when.

9 THE COURT: But they were in the shop because the City
10 did not pay its bill.

11 MR. HENIFIN: That was my understanding, Your Honor. I
12 cannot confirm that.

13 THE COURT: So then I went to my next question. Since
14 we have over 250 such occurrences around the city, why don't
15 we just encircle the areas that are in most need and work
16 our way through that? And then you said that before we
17 could do that, we had to address another problem. You
18 informed me then that while we were talking about the
19 outside sewage problem bubbling out of the ground, that
20 another problem even more frightful was the problem of
21 sewage bubbling up in the households, coming through the
22 commodes, the sinks, coming into the households, forcing the
23 residents to have to vacate those houses. So you said that
24 we should first address the houses and then go to the
25 outside but try to combine them as much as possible, but

1 there's this matter of the houses.

2 MR. HENIFIN: They are definitely related, Your Honor.
3 The sewage backups that are coming up out the street are
4 typically on the same lines that are causing backups into
5 the houses. And not all houses. It has to be the right
6 situation, but we do have a number of houses that have had
7 sewage backup into their house.

8 THE COURT: A number of houses.

9 MR. HENIFIN: Yes, Your Honor, but I don't have a
10 number.

11 THE COURT: Is it over 100?

12 MR. HENIFIN: I don't believe so, but I'd have to rely
13 on the City for that. I think it's more like a dozen or so.
14 I'm not --

15 THE COURT: And so that had to be the first address, on
16 the houses, and then try to go back to those matters that
17 are out there bubbling up from the ground.

18 MR. HENIFIN: Yes, Your Honor.

19 THE COURT: Now, let me ask you, Mr. Henifin, how are
20 we doing now on the sewage coming out of the ground?

21 MR. HENIFIN: It is still coming out. We have, I
22 think, done an inventory that shows that we're down to about
23 212, and that is not due to anything I've done. The City
24 has continued to try to work the system. They did buy
25 another truck, a used truck, and they have succeeded, I

1 think, in paring the list down to around 212. So that's
2 progress. But that has nothing to do with me, Your Honor.

3 THE COURT: But then on this matter about the City
4 buying another truck, a used truck, what happened to that
5 used truck?

6 MR. HENIFIN: I don't know, Your Honor.

7 THE COURT: Is that used truck still operative?

8 MR. HENIFIN: Yes, it is. I saw it two weeks ago
9 leaving the yard, so I know it is still running, and they
10 were working with it.

11 THE COURT: And did that truck also go to the shop?

12 MR. HENIFIN: No, I don't think that truck has been in
13 the shop since they have owned it, but that would be a
14 question for the City.

15 THE COURT: I don't know where I got it, but I
16 understand that truck also went to the shop. But
17 nevertheless, so that is on the sewage problem. So the
18 sewage problem is still fraught with problems; is that
19 correct?

20 MR. HENIFIN: That's correct, Your Honor.

21 THE COURT: And since we have a public here and public
22 listening in, do you have a projection how long it is going
23 to take to deal with this sewage problem?

24 MR. HENIFIN: To get the lines cleared and working --
25 in many cases, they are related to a collapse in the sewer

1 line downstream, so the sewage can't get through there
2 regularly. Still evaluating, but we are thinking somewhere
3 from a year to two to stop the sewage that is flowing today
4 as we speak and try to keep up with any new ones that
5 develop over that two-year time frame.

6 THE COURT: That is on the sewage problem.

7 MR. HENIFIN: That's just on the current sewage that
8 has coming up out of the ground, yes, Your Honor.

9 THE COURT: It is about 212 now.

10 MR. HENIFIN: Yes, Your Honor.

11 THE COURT: It was about over 250.

12 MR. HENIFIN: Correct.

13 THE COURT: How long ago did you take me on that tour?

14 MR. HENIFIN: We went at the end of -- middle of march,
15 Your Honor.

16 THE COURT: Middle of March. So here it is now in
17 June. So we can't say that that sewage problem is very
18 easily repaired and addressable.

19 MR. HENIFIN: Not at all, Your Honor.

20 THE COURT: What must be done to address that sewage
21 problem so that we won't have this problem again?

22 MR. HENIFIN: So each of those locations, you need to
23 essentially clean and TV-inspect, so the closed-circuit TV
24 would go into the pipe to determine what is causing the
25 sewage to back up at that spot. And there's any number of

1 causes. You could have -- the pipes have joints where they
2 come together, and sometimes the clay has moved the pipe and
3 the joint offsets, and so then debris that's flushed through
4 the system gets hung up there and then it starts backing up
5 because it can't pass any longer, so you have to dig down
6 and fix that joint.

7 In other places, you might have a section of pipe
8 that's collapsed. You might have a section of pipe that our
9 local utility company has kindly bored through when they
10 were trying to install cable television or broadband. That
11 happens frequently. And then they bore through it, and
12 stuff starts accumulating on the line they have put right
13 through your sewer line. Very nice of them to do. And as
14 things build up there, then you've got to get with the
15 utility company that caused that problem, dig down to the
16 pipe, get them to relocate their utility out of your pipe,
17 make the repair, and keep going.

18 So there's endless numbers of things that happen to our
19 sewage pipes under the ground that create this, and so it is
20 going to just be a methodical one at a time, go after them
21 with a contractor that has got the equipment to do the TV
22 inspection, cleaning, determine the cause, and then
23 immediately bring a construction contractor in to make the
24 needed repair. And sometimes it might be entire pipeline
25 from manhole to manhole. Could be a collapsed manhole in a

1 creek. Had one of those. That has been repaired in the
2 time since we toured.

3 So there is an infinite number of reasons that your
4 sewer could be backing up, but it takes -- once you have got
5 all of those fixed, you need to be on a regular program of
6 inspecting and cleaning your lines throughout the city.

7 And then you need the public education to keep people
8 from pouring grease in the system or flushing things -- like
9 your tenants, the wrong things down the toilet, which,
10 believe it or not, that's one of the biggest challenges of
11 sewer systems across the United States of people using their
12 toilet as a trash can. It is not. It is not designed for
13 that. And flushable wipes that are labeled flushable that
14 aren't, all these problems have contributed to challenge of
15 sewers across the country, and so -- and then fat, oils, and
16 grease.

17 So all your restaurants that may have grease in their
18 cooking process need to have a grease interceptor where
19 their drain line goes out of their building, captures the
20 grease, and only lets the water go through. If those aren't
21 cleaned and functional, that grease goes into your sewer
22 line. It doesn't take long for it to harden up and build up
23 into a giant blockage.

24 So, again, public education and an enforcement program
25 around grease -- fats, oils, and grease; public education

1 program around what to flush; and then an ongoing, robust
2 maintenance program to inspect, clean, and keep lines
3 flowing is all needed after you make all these repairs.

4 THE COURT: Now, these sewage lines, they are not
5 waterlines, correct?

6 MR. HENIFIN: That is correct, Your Honor.

7 THE COURT: So on the sewage problem, what is your
8 estimate on how much money it's going to take to correct
9 that matter?

10 MR. HENIFIN: We have thrown some really rough numbers
11 together with the help of the City, and at least the
12 priority projects that we have identified, somewhere in the
13 130 to 200 million is probably what we're talking about for
14 just those priority projects. Still got ongoing maintenance
15 to take care of, and then things will happen along the way.

16 And that still may not be enough. You've still got --
17 that includes some projects at the treatment plants,
18 contract-operated treatment plants, but they still need
19 reinvestment as well. We think we've got the major things
20 listed, but there will be an ongoing need to be reinvesting
21 in our sewer program.

22 We need to get our local revenues coming back in. We
23 need people to pay their bills. We need to get the right
24 rate. We need to bill the people that don't have accounts.
25 There is a lot of work to get to that point, Your Honor, but

1 we are making slow and steady progress. But the local --
2 once we get the local revenue going, and we've had this
3 federal investment, we've got some Corps of Engineer money
4 it would appear that we can direct toward sewer, I think we
5 might have the resources we need, but I still don't know the
6 full extent of the problem.

7 THE COURT: When you said 130 million to 200 million,
8 are you saying that this project eventually will have that
9 kind of money?

10 MR. HENIFIN: Yes, Your Honor.

11 THE COURT: It would come from the federal government
12 and from revenues and from where else?

13 MR. HENIFIN: So the Corps of Engineer is obviously
14 federal Government, but that is a potential that a good
15 chunk of the money that they have allocated to Jackson could
16 go to sewer. We haven't got all that locked in with them
17 yet, but we're working on that.

18 Then the federal dollars, we'd be looking for federal
19 dollars, but I don't know that beyond that Corps of
20 Engineers money we've identified any federal funding for the
21 sewer system. So then we are talking about using local
22 revenues predominately for sewer system work. But by using
23 some of the federal dollars we have for the water system and
24 if we use those efficiently and effectively, we can free up
25 local revenue to apply to the sewer. Because the local

1 revenue is not restricted to just water. It can work on the
2 water or sewer system.

3 So critical piece in this is getting people to pay
4 their bills, getting the bills to people who don't have
5 accounts, getting the billing system right, start receiving
6 revenue at the rate at which we should, and we are way below
7 that after years of failed meter projects and the pandemic
8 across the country, everyone stopped shutting off water for
9 that, which was absolutely the right move during a public
10 health crisis, but most utilities have been able to bring
11 shutoffs back in to the picture.

12 And shutoffs are a terrible blunt tool. When you turn
13 someone's water off, it is very disruptive. Unfortunately,
14 a lot of folks in Jackson understand what it's like to not
15 have water, but when they should water because it is at the
16 street and we shut it off because they are not paying their
17 bill, you get people's attention pretty quickly, and typical
18 utilities have 95 percent and higher collection rates
19 because people need water, and they pay for it if you shut
20 it off if they aren't paying for it.

21 It is a blunt instrument. We'll be looking for ways to
22 protect those that can't afford their bills when we get to
23 this, but we are definitely focused on figuring out how to
24 get that local revenue in the door, because none -- the
25 sewer program will not work if we don't have strong local

1 revenues coming in on a regular basis.

2 THE COURT: This money that is supposed to come in from
3 the federal government and the moneys that come in from the
4 federal government for the water money, that is separate
5 money, correct?

6 MR. HENIFIN: Yes, Your Honor. We are not allowed to
7 spend -- any of the federal dollars that were given to
8 Jackson or directed to Jackson as part of the Congressional
9 appropriation act last year all has to be spent on Safe
10 Drinking Water Act projects, essentially can only be on
11 drinking water. And EPA has emphasized that with us, and we
12 understand that's how Congress passed the bill, so that is
13 the language in the Congressional appropriation, and we will
14 honor that to its penny.

15 THE COURT: And then with regard to this money, these
16 moneys are separated, are they not?

17 MR. HENIFIN: Yes, Your Honor.

18 THE COURT: So then the water money is separate from
19 the sewage money?

20 MR. HENIFIN: As -- if we get federal dollars, they
21 stay separated. As we spend it, they are separated. Local
22 revenue is not separated. So local revenue comes into an
23 operation and maintenance account for the system.

24 THE COURT: Okay. And then on this money, this money
25 is maintained in separate accounts or will be maintained in

1 separate accounts, correct?

2 MR. HENIFIN: Yes, Your Honor. Or at least accounted
3 separately. Doesn't necessarily have to have a separate
4 bank account because it is all done through accounting, but
5 the money will flow and be accounted for to the penny for
6 each particular project and source of money and what it's
7 able to use for.

8 THE COURT: And as of the judge who is over this
9 matter, I have met with you to get from you the status of
10 these moneys and expenditures of these moneys. In
11 addition -- well, I believe you submitted just recently some
12 information to me on the amount of money that is under your
13 watch; is that correct?

14 MR. HENIFIN: Yes, Your Honor. I provided a report
15 showing what has come down from the federal government from
16 the current grant and grants and what has been expended, and
17 I provided that detail to you two or three weeks ago. I
18 don't know. Time is irrelevant, it seems, anymore. I can't
19 keep up with it, but --

20 THE COURT: It was about two weeks ago, I think.

21 MR. HENIFIN: I think it was about two weeks ago, yes,
22 Your Honor.

23 THE COURT: And you furnished that to me for my study.

24 MR. HENIFIN: Yes, Your Honor.

25 THE COURT: And whether I had any inquires on any of

1 that.

2 MR. HENIFIN: Yes, Your Honor.

3 THE COURT: And -- because I am to approve those
4 expenditures, correct?

5 MR. HENIFIN: I don't know if that's the correct
6 terminology, but -- I would have to get back to --

7 THE COURT: I am to review --

8 MR. HENIFIN: You're to review, yes, Your Honor.

9 THE COURT: -- those and see if I have any problems
10 with these expenditures.

11 MR. HENIFIN: Yes, Your Honor.

12 THE COURT: That also involves the projects themselves,
13 because it doesn't do much good for the Court to say I can
14 review the expenditure if I can't review the designation of
15 projects.

16 MR. HENIFIN: Correct, Your Honor.

17 THE COURT: So then you have been endeavoring to ensure
18 that those who are selected as project managers are worthy
19 of the projects.

20 MR. HENIFIN: Yes, Your Honor.

21 THE COURT: And so then when people have submitted
22 their applications, then you have to go through it
23 meticulously to determine, one, whether they can do the job;
24 secondly, whether their bidding on doing the job is
25 reasonable.

1 MR. HENIFIN: Correct, Your Honor.

2 THE COURT: And then whether they have a past history
3 of not doing the job.

4 MR. HENIFIN: Yes, Your Honor.

5 THE COURT: Am I correct?

6 MR. HENIFIN: Yes. All the qualifications that we
7 would review include past perform, reasonable price, similar
8 work experience in the past. All of these things would be
9 reviewed in a qualifications review.

10 THE COURT: In fact, towards that end, I asked you to
11 share with me a list of people who have applied to handle
12 some of these projects.

13 MR. HENIFIN: That needs to continue to be updated
14 because that one is getting out of date already, Your Honor.

15 THE COURT: Right. That is because, again, as the
16 judge with oversight responsibility, then I just want to be
17 sure that the projects are indeed projects. It is always
18 great to have another check and a balance.

19 MR. HENIFIN: Absolutely, Your Honor.

20 THE COURT: And since I am the judge who's over this
21 matter, then I need to have that check and that balance with
22 regard to persons who might be given contracts, because if
23 someone is provided a contract who is not competent or
24 someone who fails to perform, then that person should not be
25 the recipient of these public dollars.

1 MR. HENIFIN: Yes, Your Honor.

2 THE COURT: So then there is a question about their
3 past, what they have done in the past. I raised that
4 question --

5 MR. HENIFIN: Yes, Your Honor.

6 THE COURT: -- at one time, and that is what generated
7 the list; is that correct?

8 MR. HENIFIN: Yes, Your Honor.

9 THE COURT: You make the determination because you are
10 the manager, but I just want to know who is in this list of
11 potential contractees, and I wanted to ask you do you know
12 what their track record is.

13 MR. HENIFIN: Yes, Your Honor.

14 THE COURT: Because we're just not in the business of
15 passing out money.

16 MR. HENIFIN: That is correct, Your Honor.

17 THE COURT: So then we need to know whether these
18 persons have the expertise and, of course, it goes without
19 saying, honesty and the performance capability on these
20 matters so that we don't get caught up in, as I just said a
21 few minutes ago, passing out money --

22 MR. HENIFIN: Absolutely, Your Honor.

23 THE COURT: -- with no return on our dollars.

24 MR. HENIFIN: And I appreciate your guidance and
25 attention to this fact.

1 THE COURT: Well, I have tried to stay involved on all
2 of these matters.

3 MR. HENIFIN: You have stayed very involved, Your
4 Honor.

5 THE COURT: Pardon me?

6 MR. HENIFIN: You have stayed very involved, Your
7 Honor.

8 THE COURT: Well, because, again, there has to be the
9 checks and the balances, and we are all working for common
10 aim of providing the very best water/sewage resource that we
11 can for the City of Jackson. It has labored too long under
12 these stresses, so it's important that there be this
13 constant monitoring, and so then from time to time you
14 have -- well, not from time to time. Each and every time I
15 have called you, you have always telephoned me back or been
16 right there on the scene so that we can talk. And as I
17 said, I think you have done a great job.

18 MR. HENIFIN: Thank you, Your Honor.

19 THE COURT: Now, mostly I have been talking about the
20 sewage problem. On that tour you took me on, you showed me
21 a most distressing sight. We had the parties there with us.

22 MR. HENIFIN: Yes, Your Honor.

23 THE COURT: So all of the parties to this lawsuit,
24 including the mayor, were all invited to go, and so they
25 went. And you took me to what probably was the most telling

1 water rupture problem that the City faced. Is that so?

2 MR. HENIFIN: The most telling one we know of at the
3 moment. We haven't found anything any bigger yet.

4 THE COURT: I noticed how cautionary you are. That we
5 haven't found anything bigger yet.

6 MR. HENIFIN: Correct.

7 THE COURT: So when you came on the scene, you found
8 this water problem out on the Atkins Boulevard?

9 MR. HENIFIN: Yes, Your Honor. The Old Colonial
10 Country Club, I believe, or Colonial Golf Course.

11 THE COURT: And so you took me over there and the
12 parties to look at what was out there, and the water that
13 was a product of the ruptured pipe was treated and purified
14 water.

15 MR. HENIFIN: Absolutely.

16 THE COURT: In other words, that water was on its way
17 to the households when it hit the ruptured pipe.

18 MR. HENIFIN: That's correct.

19 THE COURT: And then it just came out of the pipe and
20 went into the ground.

21 MR. HENIFIN: That is correct.

22 THE COURT: Tell me again how many gallons we are
23 talking about.

24 MR. HENIFIN: We were estimating at around 5 million
25 gallons a day.

1 THE COURT: 5 million gallons a day.

2 MR. HENIFIN: Yes, Your Honor. About one tenth of what
3 we were producing overall.

4 THE COURT: All right. So 5 million gallons of water a
5 day.

6 MR. HENIFIN: Yes, Your Honor.

7 THE COURT: And that was purified water?

8 MR. HENIFIN: We'd taken it from the reservoir, fully
9 treated it, and put it into the system. Yes, Your Honor.

10 THE COURT: And it was on its way to the households.

11 MR. HENIFIN: Yes, Your Honor.

12 THE COURT: Just didn't make it.

13 MR. HENIFIN: No, sir.

14 THE COURT: So that was a waste of person power; that
15 was a waste of treatment efforts because the water just
16 ended up on the ground.

17 You also showed me what looked like a small lake out
18 there.

19 MR. HENIFIN: Yes, Your Honor.

20 THE COURT: That was a water purified lake.

21 MR. HENIFIN: Yes, Your Honor.

22 THE COURT: All of that water came from the ruptured
23 pipe.

24 MR. HENIFIN: Yes, Your Honor.

25 THE COURT: The 5 million gallons. And then I think

1 you told me at one point that you had all taken a measuring
2 pole to insert into that lake to see how deep the lake was.
3 And what happened?

4 MR. HENIFIN: We couldn't reach the bottom. Once we
5 fixed the line, we found the leak was 35 feet deep.

6 THE COURT: Thirty-five feet deep. But when you
7 inserted that pole --

8 MR. HENIFIN: It was only an 18-foot pole, so we
9 couldn't get to the bottom.

10 THE COURT: And you couldn't get to the bottom because
11 the pole just wasn't long enough.

12 MR. HENIFIN: That is correct, Your Honor.

13 THE COURT: So at that point you didn't know how deep
14 it was.

15 MR. HENIFIN: That is true, Your Honor.

16 THE COURT: You didn't find out how deep it was until
17 after you had fixed the problem.

18 MR. HENIFIN: Well, as we were fixing the problem. We
19 had to stop the flow. You saw the bypass pipelines we had,
20 the big black pipe that we had laying on the ground, and the
21 valves we put it in, speciality valves to put in to bypass
22 the flow around the problem, and then contractors could dig
23 down and discover that it was at the very bottom of that
24 pipeline at 35 feet down.

25 THE COURT: Thirty-five feet down. Now, this 5 million

1 gallons of purified water destined for the households that
2 didn't make it to the households but instead spilled out
3 onto the ground, what was the cost of that per day?

4 MR. HENIFIN: A loss of 5 million gallons a day would
5 be somewhere in -- the overall cost to run -- the plant at
6 this time is running around a million and a half. We put
7 out about a million and half a year -- no, million and a
8 half a month. I haven't done the math here, but I am saying
9 somewhere in the \$50,000 range.

10 THE COURT: About \$50,000 range for that spillage.

11 MR. HENIFIN: To make that water and to lose it on a
12 daily basis.

13 THE COURT: So that's \$50,000 a day.

14 MR. HENIFIN: Running my math in the top of my head
15 here. I may be off.

16 THE COURT: But a rough estimate.

17 MR. HENIFIN: Say somewhere in the 10 to \$50,000 range.

18 THE COURT: But, now, that problem was not repaired
19 after one day. In fact, it was not even repaired after one
20 week. Nor was it repaired after two weeks, nor a month.
21 Nor, for that matter, after six months. So how long did
22 this problem persist?

23 MR. HENIFIN: I don't have the exact date, but we have
24 been told anecdotally that it was discovered around 2016.
25 In defense of everyone that discovered it, it was very

1 challenging to figure out how to fix it, and they may have
2 just decided that it was easier to let it flow than to try
3 to fix it, because it was a very complicated repair.
4 Needless to say, it needed to be fixed at some point.

5 THE COURT: So then from 2016, you said?

6 MR. HENIFIN: Yes, Your Honor.

7 THE COURT: And we went out just a couple months ago.

8 MR. HENIFIN: Correct.

9 THE COURT: So we are talking about basically about
10 seven years. So seven years of this particular problem.
11 That cost the City of Jackson somewhere in the neighborhood
12 of 10 to \$50,000 a day.

13 MR. HENIFIN: Probably on the lower end of that as I'm
14 thinking through the number, but still, thousands of dollars
15 a day for 10 years.

16 THE COURT: And this thousands of dollars a day
17 calamity lasted for seven years?

18 MR. HENIFIN: Seven years. Yes, Your Honor.

19 THE COURT: That's a lot of days.

20 MR. HENIFIN: A lot of dollars.

21 THE COURT: A lot of dollars. And so this is what the
22 City of Jackson was paying those seven years out of its
23 water budget, correct?

24 MR. HENIFIN: Yes, Your Honor.

25 THE COURT: So then when you took me out there and I

1 saw all of that, now, I asked you what were the plans, and
2 you carefully explained to me that, of course, the plan was
3 to fix it. Now, Mr. Henifin, I know that you are being
4 gracious to all concerned about that particular problem, but
5 you said that it was complicated.

6 MR. HENIFIN: Very complicated, yes, Your Honor.

7 THE COURT: But the solution wasn't complicated, was
8 it?

9 MR. HENIFIN: Executing the solution was a little
10 complicated. With the right contractors and enough money,
11 you get it done. It was about \$2.5 million all in when we
12 fixed it, Your Honor.

13 THE COURT: 2.5 million. And compare that 2.5 million
14 to repair it against the amount of money that the City had
15 lost over seven years. 2.5 million is just a pittance.

16 MR. HENIFIN: Probably a good return on that
17 investment, yes, sir.

18 THE COURT: So now on the repair, I said that the
19 solution was not that complicated, because in the solution,
20 you just simply -- in this pipe structure, you shut it off
21 at one point, shut it off at another point, and in between
22 was where the rupture was located, and then you put in a
23 pipe that went around the ruptured section and stopped using
24 the rupture section, correct?

25 MR. HENIFIN: Until we could repair it, correct.

1 THE COURT: Until you get the repair.

2 MR. HENIFIN: So the repair was -- we dug down, and the
3 kind of pipe it was, it was pretty challenging to -- took a
4 lot of welding and manual work to fix the steel part of the
5 pipe, pour more concrete on top of it, and get it all
6 buttoned up so it wasn't leaking and then backfill the giant
7 hole and good to go. But then you take the bypass pipe that
8 you saw back out of service, and we are actually going to be
9 using that on another leak in another part of the city in
10 the near future.

11 THE COURT: Now, give me an estimate of the amount of
12 time it took for you to identify that problem, repair that
13 problem, after you were appointed as interim manager and
14 recognize what that problem was.

15 MR. HENIFIN: We didn't -- I don't even know how anyone
16 on the staff found the problem or it was reported to us, but
17 as soon as we heard about a leak, we responded, we took a
18 look at it, and realized immediately that it needed
19 specialized contracting. We were able to reach to one of
20 the consulting firms we have working with us on board
21 Stantec. Their office is on Lakeland Terrace.

22 They mobilized their contacts to get the specialty
23 contractor -- there's only a few in the country that do the
24 pressure tap work that had to happen, the line stop pressure
25 tap and bypass piping, because we couldn't stop water for

1 the City. If we had shut that line off, we would have lost
2 service to 20,000 households, probably, for days while we
3 made the repair. They would have had no water. So the only
4 option is to bypass that so you can get the water off the
5 pipe.

6 So specialty contractor came in to do that work. They
7 were also able to do the repair. So that is -- the majority
8 of the cost went to that one contractor, and they mobilized
9 within, I think, five days of us notifying them.

10 So we found the problem, we met on -- say that's day
11 one for us, identifying the problem. We reached out to
12 Stantec, our consultant, the next day. They reached out to
13 Rangeline, and they were mobilized in five, so that's a week
14 to get the contractor on-site.

15 They ran into some problems, both weather and
16 equipment. They had to get special piece of equipment
17 because they didn't have anything big enough to get down to
18 the 35-foot depth, so there was a little bit of delay there.
19 They cleared trees to put -- the access path you walk down
20 was all cleared. They moved around -- I think they actually
21 executed the repair I think within 21 days of our initial
22 notice. They still had site cleanup, backfilling to do,
23 things like that, but really from the day we found it to the
24 day the water went back on was in the 21-day range, and I
25 would have to get the exact dates for you, Your Honor.

1 THE COURT: Twenty-one days. And then we didn't have a
2 5 million gallon leakage anymore.

3 MR. HENIFIN: Not from that spot, no, sir, Your Honor.

4 THE COURT: I know you mean not -- I know because there
5 are other spots. But that spot was probably the worst,
6 don't you agree?

7 MR. HENIFIN: I hope it is, but, again, I don't know.
8 We are still losing a tremendous amount of water.

9 THE COURT: I know you have some tools to give
10 indicators as to whether there's a loss of water. Are they
11 showing that there are other spots?

12 MR. HENIFIN: Yeah. We know just based on the amount
13 of water we put into the system and the amount of water
14 people use that there's still a significant amount. We are
15 working -- actively working on four large leaks, not
16 anywhere near as dramatic, at least, in appearance, but they
17 might have a lot of water below the ground that we haven't
18 figured out. We are looking at employing some different
19 technology. Actually, there is a firm that can do this
20 using satellite imaging to help us find and locate large
21 leaks. So we are opening discussions with them.

22 So we are -- and we already have leak detection -- all
23 of the meters we've installed, the new meters, part of a new
24 metering contract, all have active acoustic listening device
25 capability, so we can actually listen through the meters.

1 And they always have noise as water is flowing, but if the
2 noise gets different -- so you are just measuring
3 differences between normal noise and something else happen
4 in the system, and there is a computer program and some
5 technicians that can now review that on a regular basis to
6 try to help us go out to those areas looking for leaks.

7 And finally, we have got a contractor in who's going to
8 do more active leak detection by inserting leak detectors in
9 valve boxes on major valves around the city. So by end of
10 this calendar year, we should have a pretty robust leak
11 detection program running to try and identify where else we
12 need to be looking.

13 And meanwhile we just keep doing it the old-fashioned
14 way: people call in; we see pressure go down. A lot of
15 what happens right now is my giant staff of two specialists
16 Jordan Hillman and Terrence Byrd, they monitor the system
17 continuously, and if they start seeing tanks dropping in the
18 system for some unknown reason, they are immediately trying
19 to figure out why that might be happening and mobilizing to
20 find the leaking pipe that is doing that.

21 They have been very, very successful over the time
22 that -- since my appointment, really since about late
23 February, early March, because up to that point, we were
24 focused almost entirely on our treatment plants. Once we
25 got the contract operator in place, Jacobs, we have been

1 able to divert our attention to the distribution system and
2 are making great strides in getting pressures back to
3 normal, responding when it breaks.

4 We have had a number of big breaks that in the early
5 months, say September through January, would have taken the
6 system down, or a large portion of it, and we have been able
7 to respond fast enough to isolate them, fix them, and put
8 them back in service without residents even knowing that
9 anything happened, with the exception, I would say, of two
10 houses on the end of Forest Hill Road that are on the very
11 end of the surface water system.

12 I'm in regular contact with those two property owners.
13 That's been an ongoing problem for 10 years, and we are
14 working on a more permanent solution for them. They are
15 still -- those two houses are still suffering from pretty
16 wild pressure swings and occasional no pressure at all, so
17 we are working closely with those to fix that problem. But
18 everyone else anecdotally that I hear through the City says
19 their pressure hasn't been this good in years.

20 So I think we're making great progress, and that is
21 from -- 150 leaks have been repaired, including the one big
22 one and many others, since the end of March -- since the
23 beginning of March; 60 large valves have been opened that
24 were closed. And when I say "large," those are on 12-inch
25 lines and bigger. I mean, these are big, big valves.

1 We continue to find leaks and fix them. Again, that
2 150, that was a couple of week ago we are at that number, so
3 we're fixing continuously. We have got two contract crews
4 that are out working every day managed by a local
5 engineering firm to make sure we are spending the money
6 wisely. We have inspectors watching what is going on at
7 every angle.

8 Within the plants, I mentioned Jacobs has been
9 operating them. They continue to repair things, make them
10 run better. We have got a major project going on at Curtis
11 where we are designing a new chemical feed system for all
12 the chemical feeds in the plant. We are also designing a
13 chlorine -- new chlorine system for the plant so we can move
14 off of the gaseous chlorine that's out there today. We've
15 got continued work on the model, which is the hydraulic
16 model for the whole system. Still requires more mapping
17 work, which is ongoing as we speak.

18 Still got -- the valve contractor that helped us get
19 those 60 valves open is now doing their assessment in
20 neighborhoods. They've been through several neighborhoods
21 already where they actually work every valve in the system
22 within an area, and they record all the information, they
23 understand if it's working, not working. We're developing a
24 list of the valves that need to be replaced because they
25 don't work.

1 So this is just ongoing, very fast-paced, really,
2 assessment, cleanup, figuring out what's going on, and
3 keeping the system running. It reacts today much more like
4 a normal system would react to a large break or to any other
5 anomaly.

6 Power failures this weekend that the city suffered, we
7 had three well sites that were -- of our six well sites that
8 lost power for a period of time, I would venture to say a
9 few months ago if we had done that, we would have lost the
10 entire well system. Everyone would have been without water
11 that's on that system, about 15,000 people. Storage tanks
12 were full at the time. The system was fully isolated from
13 the surface water system. Even with those three wells down,
14 we were able to maintain water service. Got really close,
15 but we got the power back on on those three before we lost
16 all the storage in the system.

17 So another just having the resources, you know, the
18 Congressional dollars that have come down to really make a
19 lot of this possible, but it is an advantage that the City
20 didn't have. Your Honor's got that. We've got expertise
21 here that the City didn't have. And, Your Honor, I don't
22 think we are doing anything brilliant and special. We are
23 just trying hard.

24 THE COURT: What happened to that lake I saw?

25 MR. HENIFIN: I'm sorry?

1 THE COURT: What happened to the lake I saw?

2 MR. HENIFIN: It is drained out now, because -- it was
3 forming from below -- the pipe was actually pushing the dirt
4 up from the ground 35 feet down to create that lake, and
5 then it would roll over the side of the Purple Creek there
6 and go down the bank like a nice, pretty waterfall. And
7 while it was attractive, it was a waste of valuable
8 resources. So now that hole was filled back up, because the
9 water is not coming up anymore. Once we stopped the leak,
10 it just seeped through the ground into Purple Creek on its
11 own, and we backfilled it, and it's gone. So no fish in
12 there for you, Your Honor.

13 THE COURT: Okay. So all of that's gone now.

14 MR. HENIFIN: Yes, Your Honor.

15 THE COURT: And then what about homeowners who are
16 concerned about some of their problems there at their
17 houses, sewage or water? The hotline --

18 MR. HENIFIN: Yeah. So we've got a line --

19 THE COURT: -- that has been installed.

20 MR. HENIFIN: That has been a success up to this point.
21 The number is (601)500-5200. I have used it myself when
22 I've seen things on the street. You get an answer, a body.
23 System is averaging about a one-minute wait time, which, you
24 know, we'd like to see lower, but that's pretty good in
25 today's standards. When you call anybody, if you're only

1 waiting a minute, that's not too bad.

2 First few days, we had a tremendous volume of calls,
3 but it's balanced down to a manageable three to 400 a day.
4 We were over a thousand the first couple days, so it was a
5 little challenging. We are getting better at asking the
6 right questions to narrow down the problem. So I think
7 everyone's able to get through that wants to get through.
8 We're not seeing any problems there. We're learning a lot
9 about our system because we are recording more information
10 from those folks when we get those calls. So feeling really
11 good about that effort at this point.

12 THE COURT: And then the same question I asked about
13 the sewage: Projection as to when we will be a normal
14 system?

15 MR. HENIFIN: I think -- Your Honor, I think definition
16 of a normal system in the United States might be a tough
17 definition. I think all sewer systems are challenged, but I
18 believe there is a term in the draft order that you haven't
19 seen yet that I think would be adequate to get the system
20 back on to its right path. It's always going to need
21 continued investment, but I think it would operate like a
22 normal system in the United States without any real problems
23 in that period of time. I don't know that I am allowed to
24 tell you what that time is, but you will learn about it.

25 THE COURT: Yes, I am sure I will. Is that on my desk

1 already?

2 MR. HENIFIN: I don't believe so. That's a discussion
3 for the parties. Remember, I'm subject --

4 THE COURT: Oh, that's right. That's right. Because
5 the parties are supposed to put together, at my direction --

6 MR. HENIFIN: Yes.

7 THE COURT: -- this marriage of the sewage and the
8 water matters.

9 MR. HENIFIN: Yes, Your Honor.

10 THE COURT: And I'm still waiting on that.

11 MR. HENIFIN: Yes, Your Honor.

12 THE COURT: So that we can have documentation that's
13 going to combine those two efforts. And so I am still
14 waiting on that.

15 MR. HENIFIN: I believe --

16 THE COURT: That was due today, wasn't it? Yeah, I
17 think it was due today, and I think I might have moved it
18 because of this. But at any rate, yes, I am still waiting
19 on that.

20 Now, I am going to shift gears now and hit on this
21 matter of the video. I am going to hear from the mayor
22 first, and then after that, I am going to get comments from
23 you on the video. You and I talked about the video and what
24 your concerns were, so I am going to address that matter
25 after the mayor's had a chance to talk about his video. He

1 submitted -- that is, he and his staff submitted something
2 on that matter in writing. Did you see it?

3 MR. HENIFIN: Yes, Your Honor.

4 THE COURT: And so then after he has finished, then I
5 will hear from you as to whether you still have concerns
6 about that video.

7 MR. HENIFIN: Yes, Your Honor.

8 THE COURT: Okay. Thank you. You can have a seat.
9 Thank you so much.

10 Mr. Mayor.

11 MR. LUMUMBA: Good morning, Judge.

12 THE COURT: Good morning. How are you doing?

13 MR. LUMUMBA: I'm doing well. And yourself?

14 THE COURT: I'm doing great.

15 MR. LUMUMBA: All right. Yes, sir.

16 THE COURT: On this matter of the video, do you still
17 stand by everything you said in it?

18 MR. LUMUMBA: Yes, Your Honor, I do.

19 THE COURT: And that includes the lead?

20 MR. LUMUMBA: I didn't make a comment about lead.

21 THE COURT: I know you didn't, but I'm asking. You did
22 in your submission, didn't you?

23 MR. LUMUMBA: In our submission I think we talked about
24 a corrosion plan that needed to be completed and what the
25 requirements of the Department of Health were that we issued

1 the notices that I believe we have to restore the confidence
2 of your residents after having been required to issue those
3 notices. I have made no declarations or no statements with
4 respect to an exceedance of lead within the system or any
5 concern about that.

6 As the Court has noted, you talked about restoring the
7 confidence of our residents. I count at least five times in
8 my press conference in which I stated -- and I have a
9 transcript for the Court. I know that you played a video,
10 but if Court wants the benefit -- and I am sure that the
11 attorneys for the City could provide this, but I have a
12 transcript that actually is in written form that can express
13 how many times I stated about restoring confidence of our
14 residents.

15 THE COURT: Okay. One second, please.

16 (An off-the-record discussion was held.)

17 THE COURT: I usually give my court reporter a break
18 after an hour and a half. It has been an hour and a half.
19 And so what we are going to do is recess for 15 minutes, and
20 then we will come back. All right? Fifteen minutes.

21 (A recess was taken.)

22 THE COURT: All right. Please be seated.

23 Mr. Mayor, let me come back to you.

24 MR. LUMUMBA: Okay.

25 THE COURT: I want to take up one other matter first,

1 and I'll come right back to you. Okay?

2 Mr. Henifin.

3 MR. HENIFIN: Yes, Your Honor.

4 THE COURT: When we talked about this matter and when
5 you had just finished reviewing the video, you said that you
6 thought there were some confusing statements and some
7 matters that were not necessarily as accurate as -- well,
8 accurate, and that they were inaccurate and would give the
9 public a misimpression as to what the system was like right
10 now.

11 MR. HENIFIN: And I believe on reflection they were
12 factually accurate without context. So I do believe they
13 still had potential to mislead. Obviously The
14 Clarion-Ledger was misled, and I believe overall, and I
15 think we've agreed to disagree -- the mayor and I had this
16 conversation yesterday -- that providing filters is not a
17 way to restore confidence in our water system.

18 THE COURT: That was my next question. I was not aware
19 that you met with the mayor yesterday.

20 MR. HENIFIN: We are trying to work this out, Your
21 Honor.

22 THE COURT: So after I set this matter for a hearing, I
23 take it you were contacted by the mayor's office?

24 MR. HENIFIN: I was.

25 THE COURT: And you were asked if you would come by and

1 talk to them about it?

2 MR. HENIFIN: We had our regular standing meeting. We
3 meet every Monday afternoon, and that was the topic we were
4 talking with yesterday.

5 THE COURT: And before that, you had informed us that
6 the mayor's office wanted to discontinue this hearing.

7 MR. HENIFIN: Yes, Your Honor. They asked me if I
8 would ask you to do that.

9 THE COURT: And I said no because I wanted to
10 understand what issues were being generated here with regard
11 to public confidence and public awareness of what is going
12 on. And your conversation with me was that you thought the
13 public was being misled on some matters.

14 MR. HENIFIN: Yes, Your Honor.

15 THE COURT: How many matters are there? Just give me
16 the number first, and then we will go down each one.

17 MR. HENIFIN: I think it's all around. The challenge
18 for me is not all the words, but it was the message conveyed
19 through providing filters and then trying to address the
20 technology at the end. I think if the press conference
21 maybe had stopped at the seven-minute mark before he took
22 the questions -- or before he even took the very last
23 question, we wouldn't be here today.

24 But that last question, which I believe, if you listen
25 to the tape again, was prefaced by whatever reporter asked

1 it, "This is a Jackson water question, but," and the mayor
2 chose to try to address the technology. That's where he
3 said we are months away, implying that we are months away
4 from having safe water, and those implications in those
5 comments, while I don't think they were ill-intended, I
6 think they have been -- they are challenging for us to build
7 confidence when we have those kinds of comments made
8 publicly by a figure who demands and gets a lot of respect.
9 I mean, the mayor, by position, is someone that people look
10 to for guidance, things like the water system, so, of
11 course, anything he says carries a lot more weight.

12 THE COURT: Then let's talk about these matters one by
13 one. First of all, is the water safe?

14 MR. HENIFIN: It is safe, Your Honor.

15 THE COURT: When you say the water is "safe," what do
16 you mean by "safe"?

17 MR. HENIFIN: It meets all the requirements of the Safe
18 Drinking Water Act. By title, the Safe Drinking Water Act,
19 U.S. EPA's main focus on drinking water in the United
20 States, if you meet these requirements, the water you are
21 drinking is safe.

22 THE COURT: Is the water dangerous for children under
23 five years of age?

24 MR. HENIFIN: No, it is not. What we have, though, is
25 a dispute, maybe, between the State, Mississippi Department

1 of Health, making a precautionary recommendation for that.
2 I don't know what the basis of that is. I haven't
3 determined that from the State as to what level of -- you
4 know, there's lead found in drinking water through the
5 testing that we're required to do. It comes from people's
6 household plumbing, predominantly. Your fixtures in your
7 house, the piping in your house, and if the water is
8 corrosive, it potentially shows up in your drinking water in
9 your house.

10 It's not naturally occurring in our source water. We
11 don't add anything in the treatment process that would
12 create that. It is -- needing to maintain the water at the
13 appropriate level of non-corrosiveness is what keeps that
14 from being a problem. So we are making all those efforts.
15 We are meeting all those requirements.

16 The City had a problem seven years ago. We have done
17 over 1300 tests looking for lead and copper, and we have
18 complied with the Safe Drinking Water Act. 90 percent of
19 those have been below the action level every year for the
20 last seven years, and we are continuing to meet that
21 standard, meaning in the last seven years, 1300 tests, we
22 have not found -- we have not exceeded the action level
23 limit for lead that's prescribed by EPA. The water is safe
24 if we are meeting those numbers.

25 THE COURT: So then the next question: Is the water

1 safe for pregnant women?

2 MR. HENIFIN: Yes, Your Honor. Based on the Safe
3 Drinking Water Act, which is designed to protect us, we are
4 meeting those numbers. I have no reason to believe that it
5 wouldn't be. But everyone should talk to their health
6 professional if they are concerned, and if they are
7 concerned they have got lead in their house, we publish a
8 point where they can go get their water tested. There's a
9 number they can reach out to the Health Department to get a
10 lead test for their own peace of mind in their home.

11 But, you know, meeting the Safe Drinking Water Act
12 means the water is safe for everybody. If you've got a
13 vulnerable population, your health provider may have
14 different requirements for you. That is an individual
15 health issue.

16 THE COURT: So then the press conference held by the
17 mayor mentioned more than one time children under five and
18 pregnant women and, quote/unquote, "the vulnerable
19 population."

20 MR. HENIFIN: And that's the recommendation -- the
21 precautionary recommendation coming to the City from the
22 Department of Health, and, again, I don't know the basis for
23 that. There is not a regulatory basis for that.

24 THE COURT: And so from your perspective, who's
25 handling the water matters and testing it regularly, is the

1 water safe for everyone?

2 MR. HENIFIN: Yes.

3 THE COURT: I notice that you answered quickly on that.
4 You did not equivocate. So you are saying that that water
5 is safe?

6 MR. HENIFIN: Yes, Your Honor.

7 THE COURT: Now let's talk about the water filters that
8 the mayor mentioned and said they were going to distribute
9 and all. Did you have any concern about his mentioning of
10 water filters?

11 MR. HENIFIN: I think in the context of they're needed
12 to protect a population or any population, without
13 understanding that the water is safe for all populations and
14 this is a personal choice to filter. And often I'd say the
15 majority of Americans probably filter their tap water
16 through a similar pitcher. Taste, odor, a little bit of
17 debris might in your drinking water, all within standards,
18 acceptable standards. There's a whole set of standards we
19 have to meet, but not everyone likes the water out of the
20 tap, whether you're in Jackson or Hampton Roads or Hampton,
21 my hometown. And so it is a personal choice to filter your
22 drinking water.

23 THE COURT: But the notion that the water filter is
24 either a necessity against a health hazard to five-year-olds
25 and pregnant women, is that true or not?

1 MR. HENIFIN: It is not here. You do not need a filter
2 for any population in Jackson. And unfortunately, during
3 the press conference, you had a medical professional, I
4 think probably poured the most gasoline on the fire.
5 Dr. Patterson, who was at the podium at the press
6 conference, exact quote off the transcript here, and
7 Dr. Patterson stated, "So, you know, the water that's not
8 filtered and that's not purified, then we run into the
9 problem of having disease, not only with our mothers who are
10 expecting but just with patient population in general."

11 There is no basis for that that I'm aware of, that
12 statement, and I find it pretty damning that we've got a
13 medical professional making that statement at a press
14 conference around filtered water.

15 THE COURT: And so back to the filters. How many
16 filters were mentioned as being available?

17 MR. HENIFIN: I don't know that I knew the number at
18 the time, but almost \$100,000 worth of filters.

19 THE COURT: \$100,000 worth. And so then in your
20 estimation, again, my water guru, is that \$100,000 well
21 spent on water filters?

22 MR. HENIFIN: Well, if you want to give your folks
23 filters for their own peace of mind for taste, odor, things
24 like that, I can't -- I don't think I can really -- not
25 knowing what else I could spend the money on, giving folks

1 filters that can't afford to go get the one at Target that I
2 might have in my refrigerator, because I even run a Brita
3 filter in my refrigerator -- I drink a lot of tap water
4 unfiltered, but just saying for the cold water in my fridge,
5 it's a Brita filter. I think we could probably poll many
6 people in this courtroom. But if you can't afford that
7 luxury, maybe this is a good investment. I don't know.

8 THE COURT: But was it necessary?

9 MR. HENIFIN: Not necessary for --

10 THE COURT: Safety.

11 MR. HENIFIN: -- the purposes of --

12 THE COURT: For safety.

13 MR. HENIFIN: -- the vulnerable population, no. There
14 is no health risk drinking the water that I am aware of.

15 THE COURT: So then the condition of the water at
16 present, the status of the water, doesn't have a,
17 quote/unquote, "vulnerable population"?

18 MR. HENIFIN: That is correct. The water is safe for
19 everybody unless their health professional says they aren't
20 supposed to be drinking that water for that particular
21 person.

22 THE COURT: So this notion that the filters are
23 necessary for children under five and pregnant women to keep
24 them, quote/unquote "safe," that's not a true proposition?

25 MR. HENIFIN: Again, it came from the Health Department

1 as a precautionary recommendation, and I do not know the
2 basis for that.

3 THE COURT: Okay. So then let's go back to the water
4 itself and these tests that have been run. How often do you
5 run your tests?

6 MR. HENIFIN: We are required to do the lead and copper
7 sampling once every six months. It's a complicated process,
8 but it was designed -- there is a sampling plan that was
9 designed and approved under the lead and copper rule
10 standards. We had to identify -- for the system our size,
11 we needed 100 locations. Majority of those are actual
12 people's houses where people live, and you try to find areas
13 that might be the most susceptible to lead issues when you
14 are developing your sampling plan.

15 And so that was done years ago to identify the 100
16 locations, and then you've got to convince the people living
17 in those properties to participate in the sampling, because
18 that's a bit of a hassle for them. As we deliver a
19 sample -- sample jars to them, sample bottles, once every
20 six months, and they've got an instruction sheet, and they
21 essentially have to pull the first water out of their tap in
22 the morning, usually at their kitchen sink, and they fill
23 the sample bottles, and then they notify us to come pick
24 them back up and we pick them up and then we go take them to
25 a lab to get analyzed for the lead, and that happens every

1 six months. And then there are some other parameters that
2 25 of those 100 also have to pull samples for us to analyze.

3 And then we go back to the same place time after time
4 to make sure that we are consistent in our sampling. From
5 time to time a resident may move and the next one doesn't
6 want to participate and we have to find another home that
7 meets the same criteria that we established initially to
8 participate in the program.

9 And again, we haven't had -- so when you get those
10 samples, you take those whole -- the 100 samples, you know,
11 some of them may actually show a bit of lead, and they do
12 typically, for a variety of reasons. Again, this comes from
13 the piping and plumbing typically inside their homes. Those
14 folks are notified that they exceeded the number.

15 But the regulation -- EPA's lead and copper rule says
16 as long as 90 percent are below the action level, we are not
17 in violation of anything. And most of the time ours is
18 in -- the action level is 15 parts per billion, which is a
19 drop of water in a swimming pool, but 15 parts per billion,
20 and we have been seeing number level 10 and largely in the 4
21 to 6 range is where we find -- the average we find across
22 the board, and only a handful ever exceed the 15 parts per
23 billion in the sampling. Again, that is an action level,
24 not necessarily a human health risk level of lead.

25 Now, a lot of changes, a lot of debate in the United

1 States about what the appropriate level of lead testing and
2 what the amount of lead needs to be in the water, but at the
3 moment, current regulation, it's 15 parts per billion as an
4 action level requiring us to take action, and if we've got
5 less than -- as long as 90 percent of our folks are below
6 that that we sample every time, then we don't have to take
7 any further action.

8 As a result of that -- you know, we had these problems
9 in '15 and '16, and we haven't had a single action level
10 over the -- sampling event with 90 percent over the action
11 level since then. So again, that's somewhere in the 1300
12 tests have been taken in seven years and we haven't had an
13 action level exceedance that is above the 90 percent
14 threshold.

15 All complicated numbers to try to talk to the public
16 about, which is why we really need to be careful about our
17 messaging around lead, what's in the water, what isn't in
18 the water, and we really need to be very consistent with how
19 we express these things.

20 And again, we got the Health Department and EPA that
21 weigh in, and that's our regulatory requirements to do so,
22 but the tracing back this requirement -- or this
23 precautionary recommendation for not using our water for
24 pregnant women and children under five has been difficult.
25 It has been since -- the exceedances in 2016 required the

1 City to put in an optimized corrosion control plan. We are
2 still working on that. We are close to getting it.

3 But in the meantime, you manage parameters, water
4 quality parameters, within certain ranges. Very challenging
5 to do that without your corrosion control equipment --
6 technique put in place, your treatment plan. But the City
7 has been doing a really good job over the years, and we've
8 been doing better over the last several years of getting
9 closer to managing those water quality parameters, WQPs, to
10 within a very tight range, which is very hard to do.
11 Unfortunately, you can only miss it nine times out of -- and
12 there's a lot of them that are measured monthly, so we have
13 a regular notice that goes out -- that's a requirement under
14 the regulation -- to inform the population that we aren't
15 meeting these water quality parameters.

16 Now, the water quality parameters are on things like
17 pH, alkalinity, and dissolved inorganic carbon, nothing that
18 would -- is causing a health hazard. It's an indicator, a
19 surrogate, for this corrosion control plan. But again, we
20 are doing a great job of managing the water treatment, and
21 the City has done that for a long time, since this original
22 occurrence happened in 2015-'16, and we have not found any
23 lead that exceeded the action level threshold of 90 percent
24 action level threshold, which is the requirement under the
25 Safe Drinking Water Act.

1 So from a Safe Drinking Water Act perspective, we are
2 doing great, and so the fact that we have to have this
3 precautionary -- precautionary recommendation from the
4 Health Department seems a bit onerous on the City of
5 Jackson.

6 THE COURT: So then, to be clear, the water in Jackson
7 is safe?

8 MR. HENIFIN: Yes, sir.

9 THE COURT: Is that completely safe?

10 MR. HENIFIN: As any water is. It is comparably safe
11 to any water that is regulated by the Safe Drinking Water
12 Act.

13 THE COURT: That is across the country?

14 MR. HENIFIN: Across the country, yes, sir.

15 THE COURT: And so this safe drinking water is fine for
16 consumption for this, quote/unquote, "vulnerable population"
17 that was mentioned?

18 MR. HENIFIN: Yes, Your Honor. Based on the compliance
19 with the Safe Drinking Water Act, yes, Your Honor.

20 THE COURT: So those parents of children under five
21 need not worry that the water is unsafe?

22 MR. HENIFIN: You know, there's still potential trace
23 amount of leads from their own plumbing fixtures, not
24 because of anything we are putting in the water. Could be
25 in their own house. But they should not be worried about

1 our tap water and drinking our tap water. There's trace
2 contaminants in bottled water. You know, it's the world we
3 live in. But the water is safe to drink.

4 THE COURT: And women who are pregnant --

5 MR. HENIFIN: Yes, Your Honor. Based on --

6 THE COURT: -- in the same category?

7 MR. HENIFIN: Based on the Safe Drinking Water Act
8 compliance, they should be able to drink the water without
9 concern.

10 THE COURT: And our water would compare favorably with
11 water across the country under the Safe --

12 MR. HENIFIN: Yes, Your Honor.

13 THE COURT: -- Water Drinking Act?

14 MR. HENIFIN: Tastes better too.

15 THE COURT: All right. Now, that's on the water
16 problems.

17 Now, when this press conference was called by the
18 mayor, following that, you informed me that you thought that
19 there were some concerns with the conference, correct?

20 MR. HENIFIN: Yes, Your Honor.

21 THE COURT: And you thought that these concerns would
22 give a misimpression about the status of Jackson water?

23 MR. HENIFIN: Yes, Your Honor.

24 THE COURT: Thereupon, I wanted to call a press -- not
25 a press conference, but I just wanted to have a hearing as

1 to where are we. I wanted to know, as I told you, the basis
2 for the mayor's statements and also the basis for your
3 statements that the water is clean and safe so that we, the
4 public, can have an idea of what we have. Especially I want
5 the know if there is any danger to children under five and
6 pregnant women and other people in the, quote/unquote,
7 "vulnerable population," who just said merely the
8 "vulnerable population" without any real definition as to
9 who those people might be. But I wanted to know then what
10 was the status of our water based on what I heard on the
11 video and based on what you told me.

12 You also said you thought there was some other
13 statements that were made during the course of the video
14 that may have some inconsistencies and some confusion to the
15 public.

16 So let me go to the next matter. The next matter was
17 the water filters themselves. You said you don't think that
18 they're necessary.

19 MR. HENIFIN: That is correct.

20 THE COURT: Explain that.

21 MR. HENIFIN: The water meets all the Safe Drinking
22 Water Act requirements, so there is no need to filter the
23 water for health safety. Personal preference. The other
24 problem with filters like this, if you don't change the
25 filter often, you can actually build up bacteria in the

1 filter, which actually could make the water worse because it
2 is sitting in your container an extended period of time
3 without following the manufacturer's recommendation for
4 changing the filter. The filters in these particular need
5 to be changed every four months, and they are \$50 apiece to
6 replace.

7 THE COURT: So that is a relatively expensive filter
8 that has a short life span.

9 MR. HENIFIN: Yes, Your Honor.

10 THE COURT: And if persons are not aware of that, then
11 they might think that that filter is a permanent device to
12 be applied and not recognize that actually that filter could
13 generate some more germs.

14 MR. HENIFIN: Yes, Your Honor.

15 THE COURT: What kind of germs?

16 MR. HENIFIN: I think -- I am not familiar exactly with
17 what can grow on a filter, but I know there's been a number
18 of studies done on filters accumulating bacteria over time.
19 I need to get a real expert on the health piece of this in
20 here to talk to you about that, Your Honor.

21 THE COURT: I know there's nobody on the video said
22 anything about that.

23 MR. HENIFIN: I don't recall hearing, and reading the
24 transcript, I don't think there is.

25 THE COURT: I don't recall any discussion on how long

1 one should hold on to a filter.

2 MR. HENIFIN: I don't recall that either.

3 THE COURT: On the dangers that were involved -- or are
4 involved in filters.

5 MR. HENIFIN: I don't believe so.

6 THE COURT: So then what you're telling me is that
7 those who may be convinced that they need a filter may
8 actually be purchasing a device which cause the same
9 problems they are trying to evade.

10 MR. HENIFIN: Or at least a different version of the
11 problem they're trying to --

12 THE COURT: Next point on that. I was asked where one
13 could get these filters, and also I was told that there was
14 only a limited number of filters. Did you have any concern
15 there might be a run on various places for these filters if
16 the public has some notion that they are necessary?

17 MR. HENIFIN: I would think it is a potential, but I
18 have no -- it would be limited to folks that are paying
19 close attention to certain news sources, maybe, but I
20 don't -- I'm not in the position to --

21 THE COURT: Well, I thought I heard on the video that
22 these filters are limited, that the number is limited.

23 MR. HENIFIN: I think he was referring to the giveaway,
24 but that would be a question for the mayor, Your Honor.

25 THE COURT: Yes. I understand that that's what was

1 said, then, and what I'm saying is I'm asking you were you
2 concerned whether there might be a run on various filters?

3 MR. HENIFIN: It wasn't a concern of mine. The concern
4 was just that the implication is the water is not safe
5 without filtering based on the body of the work here. And
6 when you read through the entire transcript, when you watch
7 the press conference, one is left with the impression -- I
8 was at least -- that filters are required, especially for
9 the pregnant women and children under five, and that is not
10 a requirement. It is, again, a Health Department
11 precautionary recommendation that I do not know the basis
12 for.

13 THE COURT: Because our water is safe.

14 MR. HENIFIN: Our water is safe, yes, Your Honor.

15 THE COURT: What about the water pressure now?

16 MR. HENIFIN: Doing pretty well. Doing very well,
17 actually. So I think we are monitoring in about 25
18 different locations. Prior to this, we only had our
19 pressure gauges at the two plants, and we could see the
20 elevation of the tanks, which is an indication of the
21 pressure in the system. The tanks weren't working very well
22 together because we had so many closed valves, but I think
23 we have made a huge difference with the valves we've opened.
24 I'm sure we've got more to go. But pressures are pretty
25 stable in the system at the moment. Doing very well with

1 the exception, again, of very -- I think it's just two
2 houses on Forest Hill that I'm in constant communication
3 with because they do lose pressure quickly when anything
4 happens in the system, and we are working on a permanent
5 solution to resolve that for them in the next couple of
6 months.

7 THE COURT: You thought it would be good idea to have
8 this particular session to address this matter on the water
9 filters?

10 MR. HENIFIN: I wasn't sure what you were going to do,
11 Your Honor, but when you called it, I thought it would be
12 worthy to at least get the message out there.

13 THE COURT: Okay. And -- but you were concerned that
14 the public would get a wrong idea of what's actually being
15 accomplished?

16 MR. HENIFIN: That is correct.

17 THE COURT: And also a wrong idea as to necessity for
18 water filters?

19 MR. HENIFIN: That's correct.

20 THE COURT: As -- and also a wrong idea as to whether
21 the water at present could pose a danger to children under
22 five?

23 MR. HENIFIN: Correct.

24 THE COURT: As to whether this water presently could
25 pose a danger to pregnant women?

1 MR. HENIFIN: Yes, Your Honor.

2 THE COURT: As to whether this water now could pose a
3 danger to, quote/unquote, the "vulnerable population,"
4 whoever that might be?

5 MR. HENIFIN: Yes, Your Honor. I do think the other
6 piece that's a bit confusing, and in the mayor's defense, it
7 has always been confusing, is on the -- where we are on our
8 corrosion control plan that we were required to do as a
9 result of the 2016 exceedance that we had on the action
10 level of lead, that that still is not installed, and so I
11 think when he said we're months from the water being safe,
12 and I don't know if that was the exact word, but it was the
13 implication when he said we're months away, that's reference
14 to that corrosion control.

15 But we are managing corrosion control, and we are not
16 seeing any lead, so the water is safe even before we ever
17 get to that point, so I think that was the other concern of
18 mine, and so I can see where the mayor was thinking three or
19 four months till we get the corrosion control system fully
20 put back into place and running. I can see where that
21 was -- but the way it came across was that's three or four
22 months to when the water is safe, and I think maybe that's
23 my own interpretation, but I think it could easily be
24 construed that way by the public.

25 THE COURT: Let's talk about soda ash. Tell me about

1 soda ash.

2 MR. HENIFIN: This is where we got into some details
3 that really are maybe not necessary, but the soda ash is a
4 part of this enhanced corrosion control plan. It's also
5 been used -- it's used basically to maintain pH levels in
6 the water. So it's not a chemical that does anything
7 magically. It raises pH and holds it for us. It is one
8 part of the plan to get the -- you want to keep the pH in
9 the water, dissolved inorganic carbon, and the alkalinity at
10 certain levels, and that keeps the water itself neutral, not
11 corrosive, and that's the goal. And so you could do that by
12 addition of various chemicals.

13 Soda ash is one that can be part of the corrosion
14 control plan, and that's the one that we have started with
15 here, ran into some problems. They are trying to -- the
16 current plan calls for putting that back into place, and we
17 are questioning that, so we've got fresh eyes looking at the
18 overall corrosion control program.

19 We are working with the State to see if there are some
20 other options we might explore. Liquid lime, which the
21 mayor mentioned as well, is another way to manage that.
22 There is also corrosion-inhibiting chemicals you can add to
23 your water system. Orthophosphates are typically used
24 across the country, which unlike trying to maintain just the
25 water chemistry right, you can add corrosion-inhibiting

1 chemicals that coat the pipes, essentially, and neutralize
2 the ability for the water, even if it is in a corrosive
3 state, from freeing up, causing lead to leach out of any
4 joints or solder or fixtures.

5 So there's a number of ways to deal with corrosion
6 control. We are evaluating the plans that were developed
7 prior to this that are actually under construction as we
8 speak. So we are months away, maybe, from having those
9 systems that were designed and approved by the State
10 operational. We are revisiting a couple of pieces of that
11 due to the challenges with soda ash that we experienced here
12 because we did not have it in the appropriate environment
13 for it not to, as the mayor said, clump. It was actually
14 turning into concrete because the humidity here with a dry
15 silo of soda ash, if you don't keep it dehumidified, which
16 is pretty hard to do in Mississippi -- central Mississippi
17 this time of year, it gets too wet in the container, and it
18 forms essentially a solid.

19 And we have had that experience here a few years ago,
20 and we've got two silos at the Curtis plant that are filled
21 with solid rock soda ash. But if we go back to soda ash as
22 a solution, we've got to break that out -- very expensive to
23 get that all out of the tank -- or the tower -- the storage
24 silos -- and then start reusing them again with maybe a
25 better dehumidifier. We're questioning whether we can

1 actually repeat the past and be successful.

2 So there is -- that is the soda ash issue. It is
3 related to whatever chemical combination is ultimately
4 chosen and approved for long-term corrosion control, again,
5 to maintain the water in a non-corrosive chemistry, which
6 is -- certain pH levels, certain alkalinity levels, and
7 dissolved inorganic carbon are the three key factors we have
8 to manage to keep the water from being corrosive if we don't
9 add a corrosion inhibitor. A lot of stuff to say. Right
10 now, tests are showing that we are not leaching lead to an
11 unacceptable level, we are well within the Safe Drinking
12 Water Act requirements. So even though we don't have all
13 that running, the water is safe.

14 THE COURT: During our conversation, you mentioned at
15 one point that you didn't think that this whole matter on
16 soda ash and liquid lime needed to come up in a press
17 conference.

18 MR. HENIFIN: I think it's too much detail. I mean,
19 it's --

20 THE COURT: Because there was a fear and apprehension
21 that the public would think that these are contaminants and
22 therefore they need to be removed from the water to make it
23 safe. That was one of your concerns, wasn't it?

24 MR. HENIFIN: I just think there's so much confusion --
25 you start talking about what we're putting into the water

1 and you don't put it in context of what its purpose is and
2 where it's used and how it's done, way too down in the weeds
3 for folks and they can just grab on to one piece of that,
4 and I don't think that's the message we need to be using to
5 rebuild confidence in our system.

6 THE COURT: Because on this matter of confidence in the
7 system, you had said that this whole endeavor is going to
8 face two significant hurdles. One is to fix the water, to
9 make it safe, and secondly, to develop confidence by the
10 public in the safetiness of the water.

11 MR. HENIFIN: And I think the second one is going to be
12 much harder than the first. We are going to get the
13 infrastructure done, fixed, repaired, and it is going to
14 take a lot longer if we ever can restore trust in our
15 drinking water. And it's not just Jackson unique. I mean,
16 there's -- 32 percent of Americans do not drink their tap
17 water. It's a failure of our industry to convey the
18 appropriate messaging. Maybe it's a success of the bottled
19 water industry, which would have been unheard of.

20 Who thought of putting water in a bottle and selling it
21 like it was Coca-Cola? It was Coca-Cola and Pepsi, of
22 course, that figured that out, but, you know, roll it back a
23 generation. You didn't go to the store and buy bottled
24 water. You drank what was in the tap. And now we've got a
25 whole new generation that has no confidence in their

1 drinking water, will only drink bottled water.

2 And it costs us a lot to provide this and treat it and
3 get it out and keep it safe. We've got EPA, we've got the
4 state Health Department, we've got everyone focused on
5 making it safe to drink, and all we use it for is to flush
6 and water our yards and wash our cars? We need to be
7 drinking it.

8 THE COURT: In our conversation, you had said that
9 these terms here, soda ash and liquid lime, that they just
10 pose problems when discussed to an unsophisticated audience.

11 MR. HENIFIN: It creates a lot of more things to
12 explain, there is no doubt.

13 THE COURT: Who might think that they are, in essence,
14 contaminants, and unless they are removed from the system,
15 then it might be a problem. The mayor mentioned both in his
16 video, in his press conference, soda ash and liquid lime,
17 but as I remember talking to you about it, you were
18 concerned that the public would have the impression that
19 this is a contaminant that needed to be removed from the
20 water.

21 MR. HENIFIN: I wasn't sure what the public would think
22 about it, but yeah --

23 THE COURT: But you were concerned that the public
24 might think that.

25 MR. HENIFIN: I was concerned there might be some

1 confusion and doubt about our treatment processes.

2 THE COURT: And therefore they would be even more
3 reluctant to drink the tap water because they might think it
4 contains something like soda ash or liquid lime, which
5 sounds draconian, and it sounds like it's something that's
6 going to be really dangerous to these five-year-olds and
7 these pregnant mommas.

8 MR. HENIFIN: Yes, Your Honor.

9 THE COURT: Because all of that was mentioned during
10 the same press conference.

11 MR. HENIFIN: Yes, Your Honor.

12 THE COURT: So then the public had no idea what in the
13 world soda ash was or liquid lime because there was no real
14 explanation scientifically provided that said it had no
15 impact on the safetiness of our drinking water.

16 MR. HENIFIN: Yes, Your Honor.

17 THE COURT: And you are saying it does not.

18 MR. HENIFIN: Yes, Your Honor, it does not.

19 THE COURT: So soda ash does not unpurify our water?

20 MR. HENIFIN: It, again, raises pH or adjusts pH level
21 to where you need to keep the water from being corrosive.
22 After it does its job, you can't find it in the water.

23 THE COURT: And you are saying that this liquid lime
24 does not cause our water to fail the Clean Water Act?

25 MR. HENIFIN: That is correct. It's also used to

1 adjust the chemistry of the water, and once it has been put
2 into the water in the appropriate manner, it disappears as
3 well. It does its job and you can't -- you can't go back
4 and test the water to try to find your soda ash or your
5 liquid lime.

6 THE COURT: So any suggestion that these chemicals make
7 our water dangerous is simply not true?

8 MR. HENIFIN: Correct. It is used to treat our water
9 to make it safe.

10 THE COURT: It does just the opposite; it makes it
11 safe?

12 MR. HENIFIN: Yes, Your Honor.

13 THE COURT: Now, I have discussed various matters with
14 you concerning the video and what efforts you have been
15 making and your view of any problems that may have been
16 generated in perception of what the video might have lent to
17 an unsuspected, unsophisticated public. Are there any other
18 matters in that video that cause you concern?

19 MR. HENIFIN: I don't believe so, Your Honor.

20 THE COURT: Do you think I have covered those matters
21 that you mentioned to me that caused you concern as to how
22 the public might view the efforts at present that have been
23 undertaken to try and purify this water?

24 MR. HENIFIN: Yes, Your Honor, I think you have done
25 that well.

1 THE COURT: Because you want to be sure that on these
2 second of the two major thrusts, one, make the water safe
3 and, secondly, win the confidence of the public, that we
4 don't undermine that trust in any way.

5 MR. HENIFIN: Yes, Your Honor.

6 THE COURT: And have the public thinking that there's
7 some hidden danger, some time bomb in the water either from
8 this liquid lime or from the soda ash or danger to children
9 under the five or to pregnant women, *et cetera*.

10 MR. HENIFIN: Yes, Your Honor.

11 THE COURT: And you were concerned about that.

12 MR. HENIFIN: Yes, Your Honor. Like the opportunity to
13 set the record straight, which I think we've done here
14 today.

15 THE COURT: And that's what you wanted to do is set the
16 record straight.

17 MR. HENIFIN: Yes, Your Honor.

18 THE COURT: The water is safe?

19 MR. HENIFIN: The water is safe.

20 THE COURT: All right. Thank you.

21 Now, Mr. Mayor.

22 MR. LUMUMBA: Yes, Judge.

23 THE COURT: Now, then, did you hear anything from our
24 third-party manager that you would like to comment on?

25 MR. LUMUMBA: Quite a bit, Judge. Once again, I still

1 stand by my comments. One, I think that there's always
2 danger in a single narrative. One being, first, I think we
3 need to be clear that it is reiterated that it was stated
4 that everything I said was factually correct. So I'm having
5 a difficult time squaring how I'm both factually correct and
6 reckless at the same time. I'll work on that, Judge, but
7 I'm trying to figure out how I'm both factually correct and
8 reckless at the same time.

9 Secondly, one of the reasons that I think it's
10 dangerous in a single narrative --

11 THE COURT: Excuse me, Mr. Mayor. Before you get to
12 that.

13 MR. LUMUMBA: Yes.

14 THE COURT: Why don't you tell me, then, about your
15 comments on soda ash and liquid lime.

16 MR. LUMUMBA: Yes. So when the question was asked --
17 first, I think that I have to give context. When the
18 question was asked at the end and the interpretation was I
19 said it would take a few months, I never said that it would
20 take a few months in order for the system to be reliable or
21 the system to no longer be dangerous or anything like that.

22 The specific question that was asked of me -- and I
23 know it was hard to hear, and I know for the Court's benefit
24 I want to let you know what actually took place. The
25 specific question was how long would it take for the

1 engineered solution of either soda ash or the liquid lime
2 solution.

3 Now, I think that -- that the Court would benefit from
4 an understanding of what soda ash and liquid lime does. Our
5 public -- and the media has covered this issue a number of
6 times. Soda ash nor liquid lime is a threat to our water
7 system. They know that. What it is is an additive that
8 protects our water as it goes from the water treatment
9 facility to the consumer, to the point of use. All right?
10 And so my mention of soda ash and liquid lime was a matter
11 of the corrosion -- as Ted properly stated, a matter of the
12 corrosion plan and determining how we would use this
13 additive or other additives that he has suggested to protect
14 our water as it leaves the water treatment facility and
15 reaches the point of use.

16 And I said the very thing that Ted said today in that
17 they were still trying to determine what was the best
18 solution because the soda ash would clump and quite possibly
19 in southern climates it was more advantageous to use liquid
20 lime or some other solution.

21 In addition to that, Judge, the conversation about what
22 Dr. Patterson said, I would note for the Court that
23 immediately after Dr. Patterson's statement of -- that Ted
24 recounted and spoke to, I came back to the podium and said
25 precisely, "And I do for clarity's sake just want to let our

1 residents know that it has not been demonstrated that our
2 water is in fact dangerous, but the investment that we are
3 making in the treatment process repairs that have to take
4 place within the treatment process, until we are able to
5 change the soda ash in our system, it is a precautionary
6 notice that goes out."

7 But our residents receive those notices that are
8 precautionary notices that the Department of Health
9 indicates that we have to put out, and it creates questions
10 in terms of confidence. I'm being placed in a very
11 difficult position, right, where, one, I at no time in this
12 press conference and no time in history have I ever said
13 that I believe that our water is unsafe. I have been
14 required -- and I want to say this. The notices that we
15 have been putting out and been required to put out have been
16 required by the Department of Health. They aren't
17 recommendations. They aren't suggestions, as has been told
18 to the Court today. They are requirements. And having put
19 out those required notices, it does create some question
20 within our residents' mind.

21 I respect Mr. Henifin's expertise. I too was one of
22 the individuals, as we go through this process of how we end
23 up in front of this Court, that okayed Mr. Henifin as a
24 recommendation as the third-party administrator. You have
25 termed him today as a water guru. Now, I can't say what his

1 expertise is in terms of mental health. I can't say what
2 his expertise is in terms of building confidence amongst our
3 residents.

4 What I can say is that I've been a part of a number of
5 community discussions where our residents say, well, you
6 know, this may be a possible way that people are reinvited
7 to using water. Right? I am not trying to say, nor have I
8 ever termed, that our water was unsafe, but I am saying that
9 we need to rebuild that confidence. I am saying that we
10 have been required to send these notices, and that having
11 been the case, you know, I stand by the words that I used
12 that, once again, by Mr. Henifin's own account, were
13 factually correct, right, and at the same time were an
14 effort to assist our residents, were an effort to show -- to
15 show our residents that we care and that we are concerned.

16 And, you know, Judge, I do not, respectfully, apologize
17 for trying to deliver a service to my residents in providing
18 these water filters.

19 THE COURT: Let's talk about some particulars.
20 Mr. Henifin says that the water is safe and there's no
21 concern under the Safe Water Act for children under five.

22 What's your response?

23 MR. LUMUMBA: My response is that I appreciate
24 Mr. Henifin's position. I have never held out that it is
25 unsafe. I never held out that the water filters were a

1 necessity to our residents, as has been communicated today.
2 I've never used the word "necessity." And while I may not
3 necessarily disagree with Mr. Henifin's position, it still
4 does not change the position that we have as a City been
5 required to send these notices.

6 And so I think, you know, I'm being put in the middle
7 of a position that I may -- may agree with but a requirement
8 on the other hand, right, that I've been responsible for
9 delivering and at the same time trying to defend my factual
10 communication.

11 THE COURT: I don't know if you answered my question.
12 Let me go back to it again. What is your position on our
13 water with children under five?

14 MR. LUMUMBA: Chokwe Lumumba believes that our water is
15 safe.

16 THE COURT: Okay. And then does the mayor believe that
17 the water is a danger to children under five?

18 MR. LUMUMBA: Chokwe Lumumba does not believe that the
19 water is a danger to children under five.

20 THE COURT: And what about your position as to whether
21 the water is dangerous for pregnant women?

22 MR. LUMUMBA: Chokwe Lumumba does not believe that the
23 water is dangerous for pregnant women.

24 THE COURT: And what about this vulnerable population?
25 You mentioned that, and I don't know to whom you were

1 referring. Who is the vulnerable population you were
2 mentioning?

3 MR. LUMUMBA: The vulnerable population, Judge, is
4 defined by the notice that is not only -- the one that we've
5 been required, and I believe that that's what the Court was
6 referring to about lead that was attached to our filing.

7 THE COURT: That's correct.

8 MR. LUMUMBA: But also the vulnerable population that I
9 was referring to is the one that is identified on the
10 Department of Health's website -- I have another attachment
11 here for you, Judge.

12 I think it's in the filing, correct?

13 It's Exhibit B. In Exhibit B that identifies on their
14 website what they identify as a vulnerable population. And
15 maybe they don't use that precise language, but it
16 identifies in a bullet form any child five years of age or
17 younger, any pregnant women should use filtered water,
18 NSF 53 -- that's the number that I couldn't remember when I
19 was doing the press conference -- certified filter, or
20 bottled water for drinking and cooking. This is not Chokwe
21 Lumumba's perspective. It is not what I elected to send
22 out. This comes from the Department of Health's website and
23 what they require. It says baby formula should be
24 ready-to-feed -- that's in parentheses; I guess that's a
25 particular type -- or prepared using only filtered water or

1 bottled water.

2 What we have, Your Honor -- what we have, Judge, is a
3 discrepancy between professionals, right, and you have me in
4 the middle just trying to restore confidence of our
5 residents. You have me in the middle who has been required
6 to send these notices -- whether I agree with them or not,
7 right, I've been required to this point to send them out,
8 and I believe that the requirement to do so does create
9 questions of confidence, does create circumstances where our
10 residents are not familiar or -- I wouldn't call them
11 uneducated or uninformed public, because I do believe that
12 our public is far more informed than most communities
13 because of what they have been tasked with dealing with.
14 However, they have diverging communication that is before
15 them, and they are trying to make sense of it, and so we are
16 trying to restore their confidence.

17 That's simply what our effort has been in this regard,
18 and we will continue to push forward an effort of restoring
19 their confidence in any way possible.

20 THE COURT: One of the concerns that we had when I
21 talked to Mr. Henifin was whether that's restoring
22 confidence to talk about the distribution of water filters.
23 Does that restore confidence in the water, or does that say
24 that the water actually has problems and the water filters
25 are necessary?

1 MR. LUMUMBA: Well, Judge, I believe that that is a
2 matter of perspective. I will say to you that that
3 perspective was one was generated out of community
4 discussions, out of people's assemblies. I will say to you
5 that at least, whether accurate or not, it is a
6 recommendation placed on the Department of Health's website
7 that filters do so, and so it was not one that was simply of
8 my own making and creation.

9 I will also let you know that, first of all, the boxes
10 that we placed came with instructions that talk about the
11 time frame in which a filter can be used. We provided two
12 filters, so if there's a four-month period of time,
13 providing two filters means that we have accommodated for
14 eight months of filtered water.

15 I would also say that -- that while \$50 to replace a
16 filter is an expensive and, in my opinion, exorbitant cost,
17 the question would be if our residents are not using our
18 drinking water, if our residents are instead buying bottled
19 water, which I know to be the case, how much expense are
20 they bearing over a four-month period of time purchasing
21 cases of water as opposed to having a device or having a
22 filtration pitcher present that they can use in order to
23 avoid that expense?

24 THE COURT: This conference is designed, this status
25 conference, to address a second situation. One is what

1 efforts are being to purify the water and secondly how to
2 build confidence. The question is -- is whether the video
3 slipped at certain places and didn't build confidence. You
4 think that it did?

5 MR. LUMUMBA: Absolutely, Judge.

6 THE COURT: So then even though there was discussion on
7 soda ash and liquid lime, terms that the public does not
8 understand that seem more like they were contaminants, you
9 thought that still built confidence?

10 MR. LUMUMBA: Judge, respectfully, I would say that
11 it's a matter of perspective and belief. Once again, it
12 isn't my first time talking about soda ash or liquid lime.
13 I have clarified time -- and consistently time and time
14 again about soda ash being an additive that is based on our
15 corrosion plan, that is based on protecting the water as it
16 leaves the plant.

17 Once again, I think Ted is correct. Water is -- you
18 know, I don't know if I can say perfect, but it is -- it is
19 of a quality that is as perfect as it ever is in our system
20 until it goes through our pipes. We have 50 percent loss.
21 We talked about repairing the major leak. We have
22 50 percent loss in our system, so there are many, many leaks
23 we have had to repair over the course of time.

24 I do believe that JXN Water does deserve to be
25 commended for the repair of the leak that took place on

1 Colonial Drive. I will tell you, Judge, that my
2 administration was unaware of it, so it wasn't like we were
3 neglecting it. We were unaware of it. I understand that
4 maybe a previous administration did identify it at that
5 particular point in time. I understand that it was not as
6 large as it ultimately grew to be.

7 But having 50 percent loss in the system, all of the
8 places that water goes, it requires additives to protect it
9 as it comes from the plant to the point of use, and soda ash
10 and liquid lime are two options of additives that can
11 protect water as it travels through the system.

12 THE COURT: But you don't construe those as being
13 contaminants?

14 MR. LUMUMBA: No. Nor have I ever said that. I
15 don't -- you know, the --

16 THE COURT: I just want to be sure so the public
17 understands that you are not saying that they are
18 contaminants.

19 MR. LUMUMBA: It is not a contaminant. They are
20 industry -- I think it is -- is it safe, Ted, to say that it
21 is industry standard to use those -- those two --

22 MR. HENIFIN: Any variety of things (inaudible).

23 MR. LUMUMBA: Yeah. It is -- it is something that
24 water systems across the globe use in order to protect
25 water, and it is not an additive or danger in the way in

1 which it's used.

2 THE COURT: And on these other matters, I think I've
3 already gotten an answer. You're not saying that this water
4 is unsafe for children under five?

5 MR. LUMUMBA: I am not saying that. I am being careful
6 with my words, Judge, because I think at some point the
7 Court may have to determine whether this was a requirement
8 that we needed to do in terms of the notices we put out.
9 There is another civil matter that is pending against the
10 City of Jackson, and so I am being careful. And I'm not
11 being pompous by saying my name, Chokwe Lumumba. I am being
12 careful in identifying what is my individual opinion versus
13 any City of Jackson official statement. That is why I am
14 saying my name when I talk about what my opinion of the
15 water is. I do, Chokwe Lumumba, believe that the water is
16 safe.

17 THE COURT: Okay. So safe for the under five children,
18 safe for pregnant women, safe for the vulnerable population?
19 The water is safe?

20 MR. LUMUMBA: Chokwe Lumumba believes that the water is
21 safe for all residents in Jackson.

22 THE COURT: Okay. And with regard to the filters, are
23 they necessary?

24 MR. LUMUMBA: I don't -- I would not say -- I don't --
25 I lack the expertise to say whether they are necessary. I

1 will say that I have never shared or expressed at any point
2 in time that they are necessary. I will once again just
3 point to the Department of Health's recommendation and also
4 discussions with community as the rationale for why we
5 delivered filters and the population that is identified on
6 the state Department of Health's website and in the notices
7 that we were required to issue.

8 THE COURT: And do you agree with Mr. Henifin that the
9 retention of these filters over a long period of time could
10 actually be destructive?

11 MR. LUMUMBA: I think if the filters, like anything,
12 are not used appropriately, then -- then it could be
13 problematic, and I would always recommend to residents that
14 they use not only the filters but -- but any device of any
15 type as it is prescribed and recommended to be used.

16 THE COURT: So then you are telling the public that
17 while there was no mention of the dangers of these filters
18 over a period of time, you are now telling the public that
19 retention of these filters over a period of time which
20 exceeds what the filter is designed to accomplish could be
21 dangerous?

22 MR. LUMUMBA: I am telling the public that -- that
23 quite possibly I failed to communicate that orally that
24 retaining filters and not replacing them could be
25 problematic, but I would recommend to them that they

1 actually read the instructions in the devices and boxes that
2 we provided them.

3 THE COURT: And that is a personnel choice for them to
4 utilize filters, but it is not a choice dictated by water
5 safety?

6 MR. LUMUMBA: I lack the expertise to say what is
7 dictated by water safety. Once again, I would leave that to
8 the debate of experts, right? Chokwe Lumumba believes that
9 it is safe, right, but I lack the expertise. I don't --
10 Judge, I am very careful with the words that I say. And
11 being careful with the words that I say, you know, what I
12 recognize is that there are two different perspectives in
13 the room, and so I have not the sufficient background to
14 break the dispute.

15 What I am saying is that I never said it was necessary.
16 I am just providing to residents filters after having issued
17 a notice and after having had publication on the Department
18 of Health's website saying that they should drink filtered
19 water.

20 THE COURT: Do you think that in the future it would
21 behoove all parties that before press conferences are
22 provided on matters that could impact upon the public's
23 perceptions on the safeness of the water, that there should
24 be come clearing committee or person or whatever to be sure
25 that we don't have to have these conferences all the time?

1 MR. LUMUMBA: Well, Judge, I would admit that this is a
2 bit unique as a status conference in my experience, in just
3 my personnel experience. I don't necessarily prescribe to
4 the fact that we should have a clearinghouse for press
5 conferences for the City of Jackson.

6 I am willing as a matter of professional courtesy to
7 speak to Mr. Henifin if and when I see a connection between
8 his responsibilities and our responsibilities to the public
9 as the City of Jackson to communicate that with him.

10 I will tell you, Judge, that this was something that
11 was in the works before Mr. Henifin came on board. In fact,
12 it was the subject of questions that I received on Good
13 Morning America for ABC because I had not issued the water
14 filters yet. They questioned the City for holding these
15 funds, and that is why in the press conference I explained
16 all of the dynamics that went into bringing us to that
17 point: securing of the filters and the issues the
18 distribution chain or -- you know, that we've just
19 experienced in our world. I talked about the priority of
20 first getting water pressure restored before we issued
21 residents filters because we didn't want them to be angered
22 by the fact that we've given you a filter and you have no
23 water to actually turn the faucet on and be filtered.

24 So hopefully I answered your question, Judge, to the
25 best of my ability.

1 THE COURT: On water pressure, where are we?

2 MR. LUMUMBA: So as Mr. Henifin stated, we have weekly
3 meetings, and in those meeting, you know, I can only rely on
4 what he shares with me. He states that we are in a better
5 place than we've been, and so I rely on that, and I
6 appreciate that.

7 I think there are some other areas of concern that
8 we've talked about, such as, you know, making sure that we
9 ensure that there is proper water pressure at all of our
10 fire hydrants. We've talked about that.

11 And I don't want to go too deeply in that, Judge, but I
12 think that there are points that we just -- as this system
13 is being repaired, as this system has not had all of the
14 routine maintenance and investment that it has needed over
15 decades, I don't believe that we are dealing with a sprint,
16 we are dealing with a marathon, and we have to ensure that
17 all opponents of the system are better protected than they
18 have been.

19 THE COURT: Anything else you want to add to your
20 comments about what was said here today or about what was
21 said on the video?

22 MR. LUMUMBA: Once again, I think that it has been
23 established that what I said was factually correct. It in
24 no way was intended to destroy the confidence of residents
25 in our water system. In fact, it was the exact opposite.

1 It was stated more than five times that it was to increase
2 the confidence of our residents. It was stated expressly
3 that there has not been discovered any actual threats or
4 danger in our system.

5 I stand by that press conference, and I stand by what
6 I've shared with you today of what Chokwe Lumumba's
7 perspective of the water system is, but we do have the
8 conflict of the notices that we've been required to issue
9 and what the public's perception of those things are.

10 And then I would just conclude. The question that was
11 asked to me at the end was not when I believe that the water
12 will be safe or how long it would take for safety. The
13 question that was asked to me at the end was how long would
14 it take for the soda ash system to be repaired or
15 identified, the engineered solution, and my response was a
16 response that I was able to give because I had met with
17 Mr. Henifin a mere day or two days prior to the press
18 conference, and I had immediate firsthand knowledge as to
19 how long it would take.

20 THE COURT: All right. Thank you very much.

21 MR. LUMUMBA: Thank you, Judge.

22 THE COURT: Mr. Henifin, could you go back to the
23 podium, please. Mr. Henifin, did you hear anything with
24 which you disagree?

25 MR. HENIFIN: No. I think we're --

1 THE COURT: Did you hear anything that you think
2 deserves clarification?

3 MR. HENIFIN: I don't think so.

4 THE COURT: And on this matter of notices, do you have
5 an opinion as to the City's requirement under these notices?

6 MR. HENIFIN: The notice -- I was just rereading the
7 one that was in the package that you received that went out
8 in -- it doesn't actually have the Health Department's
9 recommendation about filtering the water. It's on the
10 website, the Health Department website. I don't believe
11 it's a requirement in the notice, and they didn't print it
12 in the notice that went out. It's in the package.

13 So, again, that's a very interesting requirement that's
14 not even a requirement. Precautionary recommendation. I
15 don't even know what that really means, a precautionary
16 recommendation, and it does appear on the Health Department
17 website, but I don't see it on that particular notice. It
18 has been on previous notices, so I'm not sure where the
19 requirement is. So I will continue to pursue that, as the
20 mayor said, between JXN Water and the Health Department to
21 understand the origin, what the requirement is, and we will
22 conform to whatever they require.

23 But at the same time, distributing filters in the way
24 we just did I do believe could set the impression that the
25 water was unsafe unless you filter it, and that's why we are

1 here today, I think, to set that record straight that the
2 water is safe without filters. Filters are personal choice.

3 THE COURT: And are you satisfied that with today's
4 conference we have everyone on the same page saying that the
5 City of Jackson's water is safe?

6 MR. HENIFIN: I believe we do have everyone on the same
7 page, Your Honor.

8 THE COURT: And are you satisfied that those persons
9 out there who thought that it was not safe for children
10 under five should recognize from this session with all
11 concerned that that is simply not true?

12 MR. HENIFIN: Yes, Your Honor.

13 THE COURT: And are you further satisfied that at this
14 point those who thought that pregnant women were at risk
15 with Jackson's water presently could recognize that under
16 the Clean Water Act that's not true?

17 MR. HENIFIN: Yes, Your Honor.

18 THE COURT: And that further, that efforts are still
19 being waged to clean the water, purify the water, and to win
20 the confidence of the Jackson residents on usage of the
21 water?

22 MR. HENIFIN: Yes, Your Honor. And the efforts are --
23 you know, we are making great water, but the efforts to make
24 sure that we can do that consistently without interruption
25 are where we're making our investments. But the water has

1 been pure, clean, and in great shape, and --

2 THE COURT: And furthermore, are you -- are you
3 satisfied at this point that those who may have placed undue
4 confidence in water filters need to understand that, one,
5 they don't need them for clean water and, two, that
6 retention of these devices over too long a period may cause
7 some health situations?

8 MR. HENIFIN: I am in full agreement with the mayor
9 that they should follow the manufacturer's instructions to
10 make sure they protect themselves.

11 THE COURT: That was not mentioned in the video but
12 that it should be included, and that's what we're doing
13 now --

14 MR. HENIFIN: Yes, Your Honor.

15 THE COURT: -- is telling the public that those water
16 filters could themselves pose a problem or a danger; is that
17 correct?

18 MR. HENIFIN: Yes. Without following the
19 manufacturer's instructions.

20 THE COURT: All right. Now, when I first talked to you
21 about the soda ash and the liquid lime, your immediate
22 response is you thought that might be confusing to the
23 public.

24 MR. HENIFIN: Yes, Your Honor.

25 THE COURT: Do you think now this session has had an

1 effect upon their potential confusion?

2 MR. HENIFIN: Maybe a little bit. It is a challenging
3 issue, so I don't know that we have solved everyone's
4 concerns or even questions around what chemicals are used to
5 treat water and how water is to be treated. But I think
6 that is a job for us to do a much better job of explaining
7 water treatment to the general public in terms that they can
8 understand. So I am taking that away as an action item.

9 THE COURT: Okay. Because now what you are saying is
10 that it is an additive but it is not a dangerous additive?

11 MR. HENIFIN: That is correct.

12 THE COURT: And then on the water pressure, that is a
13 work in process?

14 MR. HENIFIN: It will be work in progress for many,
15 many months, a year, two. We are working on it. Continue
16 to.

17 THE COURT: Okay. So are there any other concerns you
18 think we need to cover here to be sure that the public
19 understands that there is a tremendous effort here on the
20 part of all concerns to build trust in the water system?

21 MR. HENIFIN: I think you have done a good job of
22 getting us all to that point, Your Honor.

23 THE COURT: And are there any other matters that you
24 think need to be mentioned here?

25 MR. HENIFIN: No, Your Honor.

1 THE COURT: Okay, then. Mr. Henifin, I want to thank
2 you, then.

3 Thank the mayor.

4 Thank all of the parties here for being here.

5 And I understand there are some required notices that
6 have to go out.

7 Mr. Kucia, you represent the Mississippi Department of
8 Health?

9 MR. KUCIA: Yes, sir.

10 THE COURT: Do you agree that these required notices
11 actually were, quote/unquote, "under the regulations
12 required"?

13 MR. KUCIA: It's my understanding yes, sir, they are.

14 THE COURT: And on what basis are these notices
15 required? What is the basis for them?

16 MR. KUCIA: The LCR. The lead and copper rule, Your
17 Honor.

18 THE COURT: But you are not saying by these notices
19 that the water is unsafe?

20 MR. KUCIA: No, sir.

21 THE COURT: You are not saying by these notices that
22 there is lead and copper that would have a deleterious
23 effect on drinkers of the water?

24 MR. KUCIA: No, sir.

25 THE COURT: These notices are routine notices?

1 MR. KUCIA: It is my understanding that they're
2 routine. They have been routine since I believe 2020 --
3 2016 -- I'm sorry. Since -- based on what the city attorney
4 is saying, since 2016, not 2020.

5 THE COURT: So these notices have been going out since
6 2016?

7 MR. KUCIA: Yes, sir.

8 THE COURT: And they do not indicate at all that our
9 water is unsafe?

10 MR. KUCIA: No. They are simply advisory, Your Honor.

11 THE COURT: "Advisory" means what?

12 MR. KUCIA: Based on the rules and regulations, the --
13 pertaining to lead and cooper rule.

14 THE COURT: But the notices have to be sent out.

15 MR. KUCIA: Yes, sir.

16 THE COURT: Any idea how long these notices will have
17 to continuously be sent out?

18 MR. KUCIA: No, sir, I don't.

19 THE COURT: But the notices are simply to do what?

20 MR. KUCIA: To provide information is what I
21 understand, Your Honor.

22 THE COURT: But, again, nothing about these notices
23 indicate that Jackson's water is unsafe?

24 MR. KUCIA: That's correct, Your Honor.

25 THE COURT: Nothing about these notices indicate that

1 Jackson water does not meet the Safe Water Drinking Act?

2 MR. KUCIA: That's correct, Your Honor.

3 THE COURT: They're just simply notices.

4 MR. KUCIA: Yes, sir. Based on the lead and copper
5 rule.

6 THE COURT: Okay. Anything you want to add to that,
7 Mr. Kucia?

8 MR. KUCIA: No, sir.

9 THE COURT: All right. Thank you so much.

10 MR. HENIFIN: Your Honor, can I for a second?

11 THE COURT: Yes.

12 MR. HENIFIN: So the notices are required because we
13 don't have the optimized corrosion control system in place.
14 In lieu of that, we monitor these water quality parameters
15 monthly, and if we have more than nine exceedances, which is
16 pretty common because there are a lot -- and water quality
17 parameters, again, it's pH, alkalinity, and dissolved
18 inorganic carbon. Nothing in there that's detrimental to
19 your health. That is just keeping the water from being
20 corrosive, a measure in a very narrow line.

21 If you have more than nine, you are required to put out
22 a notice to let folks know you essentially still haven't got
23 your corrosion control optimized, so these have to go out
24 every two months, I think -- 30 days after. So it is
25 required to put the notice out 30 days after you realize you

1 have exceeded that nine number in the water quality
2 parameters, so because we are exceeding it all the time,
3 they're going out every 60 days, basically, from the
4 previous sampling. So these will continue until the
5 optimized corrosion control is in place and we can prove it
6 has been delivering water.

7 But all that said, the actual concern of lead and
8 copper rule is, is there lead in the water? We have proven
9 through testing and sampling in accordance with the Safe
10 Drinking Water Act that we are below the action level limit,
11 that based on Safe Drinking Water Act our water is safe to
12 drink, and yet this is just a -- it's a requirement of the
13 Safe Drinking Water Act that we have to let folks know that
14 those parameters around pH, alkalinity, and dissolved
15 inorganic carbon are not being maintained in that tight
16 range, but yet we are not having any lead issue. So this is
17 a requirement.

18 The part that I was harping on a little bit earlier was
19 the need to put the statement in; that is, the precautionary
20 recommendation from the Department of Health, that the water
21 should be filtered for children under five and pregnant
22 women. This latest notice doesn't have that. I don't
23 believe it is required that we put that particular
24 precautionary recommendation, and that's sort of where I
25 need to trace this back with the Health Department to see

1 that that particular precautionary recommendation is not
2 legally required to be in the notice.

3 THE COURT: And the bottom line again is?

4 MR. HENIFIN: Water is safe to drink for all
5 populations.

6 THE COURT: The water is safe and this whole matter
7 here of notice does not affect the status of the water under
8 the Clean Water Act?

9 MR. HENIFIN: Safe Drinking Water Act, Your Honor.

10 THE COURT: Right. Does not affect it at all.

11 MR. HENIFIN: Yes, Your Honor.

12 THE COURT: Okay. Thank you so much.

13 And for everybody else, thank you all for answering the
14 Court's call. I wanted to get these matters out as quickly
15 as possible to the public just in case there are some people
16 out there who have some notion that Jackson's water is
17 unsafe or that it is definitely unsafe for children under
18 five and pregnant women and the vulnerable population,
19 *et cetera*, so I wanted to be sure that there was no
20 confusion on these matters, and also I wanted to hear from
21 the principals here so then I could reach my own conclusion
22 as to where we were and where we are going.

23 So thank you all so much for the status conference, and
24 I will be in contact with those who were supposed to be in
25 contact with me on a regular occasion. But thank you all

1 for coming. Thank you much.

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COURT REPORTER'S CERTIFICATE

I, Caroline Morgan, Official Court Reporter for the United States District Court for the Southern District of Mississippi, do hereby certify that the above and foregoing pages contain a full, true, and correct transcript of the proceedings had in the forenamed case at the time and place indicated, which proceedings were stenographically reported by me to the best of my skill and ability.

I further certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

THIS, the 30th day of June, 2023.

/s/ Caroline Morgan, CCR

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